



Governing Body

338th Session, Geneva, 12–26 March 2020

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Institutional Section

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TWELFTH ITEM ON THE AGENDA

Complaint concerning non-observance by Bangladesh of the Labour Inspection Convention, 1947 (No. 81), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), made under article 26 of the ILO Constitution by several delegates to the 108th Session (2019) of the International Labour Conference

1. At its 337th Session (October–November 2019) the Governing Body had before it a report of the Officers regarding a complaint concerning non-observance by the Government of Bangladesh of the Labour Inspection Convention, 1947 (No. 81), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), submitted under article 26 of the ILO Constitution by several Workers' delegates to the 108th Session (June 2019) of the International Labour Conference.¹
2. Having considered that the complaint was receivable insofar as it met the conditions established in article 26 of the ILO Constitution, the Governing Body requested the Director-General to forward the complaint to the Government of Bangladesh, inviting it to communicate its observations on the complaint by 30 January 2020, and to include this item on the agenda of the 338th Session of the Governing Body (March 2020).

¹ [GB.337/INS/13/1](#).

3. The Government provided initial information on the situation of freedom of association in the country in a communication dated 23 October 2019 and submitted its full observations in a communication dated 30 January 2020, a copy of which is appended to the present document (see appendix).
4. In accordance with article 26 of the Constitution, it is for the Governing Body to take the necessary decisions concerning future action on this complaint.

Draft decision

5. *The draft decision, together with any financial or other implications, will be made available to the members of the Governing Body after consideration by the Officers.*

Appendix

Observations of the Government of Bangladesh on the complaint submitted in accordance with article 26 of the ILO Constitution by several Workers' delegates to the 108th Session of the International Labour Conference

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Government of the People's Republic of Bangladesh
Ministry of Labour and Employment
www.mole.gov.bd

Response to
the Complaint under Article 26 of the ILO Constitution against the Government of Bangladesh
for non-observance of Convention No. 87 on Freedom of Association and the Right to Organise,
Convention No. 98 on the Right to Organise and to Bargain Collectively and Convention 81 on
Labour Inspection

Complaint submitted by
the Worker Delegate Japan, Worker Delegate Italy, Worker Delegate Pakistan, Worker Delegate
Brazil, and Worker Delegate South Africa to the 108th Session of the International Labour
Conference on 20 June 2019

Bangladesh Government response

Bangladesh became a proud member of ILO in 1972 and had ratified 29 ILO conventions on a single day in the same year manifesting its full commitment to the spirit of ILO from the very beginning. Bangladesh has already ratified a total of 35 ILO conventions including 7 of the 8 fundamental conventions of ILO. Bangladesh is happy to inform the remarkable progress in recent years in the labour and employment sector in Bangladesh in terms of administrative, legal and policy reforms, particularly in improving trade union activities, workplace safety, wages, skills development and labour welfare. Due to the joint efforts of the workers and entrepreneurs, Bangladesh has posted the highest GDP growth rate of 8.15% among the 45 countries of the Asia and the Pacific region. Our Hon'ble Prime Minister declared Vision 2021 to make Bangladesh an upper middle income digital country and Vision 2041 to make Bangladesh a fully knowledge-based developed country built on peace, justice and inclusiveness. The Government of Bangladesh has employed every resource possible to achieve those goals so that the people get better off and have the real benefit of development. Due to the relentless efforts of both the government and the people, the poverty rate came down to 20.5 percent in 2019 from 31.5 percent in 2010, extreme poverty to 10.5 percent from 17.6 in 2010. All these were possible due to the commitment of the government and the support of the people with effective cooperation of the international development partners.

The government had been pledge bound to further develop the labour sector as per international norms. **The election manifesto of Bangladesh Awami League at page 52, para 3.17 mentions "Awami League is determined to implement the multilateral steps on labour policy and the welfare of the labourers taken in the light of the Constitution and ILO Convention".** So there is no ambiguity about the earnest intentions of the Government to ameliorate the labour sector as per international practice and the constitution of Bangladesh which assures fundamental rights to every citizen of Bangladesh including the workers. The Government has already taken many epoch-making measures which can be considered as exemplary even for other countries at similar level of development.

Notable ones among these can be mentioned below:

- The Bangladesh Labour Act, 2006 amended in 2013 and 2018 through which trade union registration process has been simplified. The minimum membership requirement to form trade union is reduced from 30% to 20%.
- The minimum wage for the RMG sector workers has been re-fixed in 2010, 2013 and 2018. Note that since 2006 the minimum wages for the RMG sector workers has been increased by 380%.
- The Department of Inspection has been upgraded with additional 993 manpower, 23 new offices, financial resources and logistics.
- With support of ILO, brands, buyers, and development partners, necessary steps have been taken to ensure building, fire and electrical safety of existing export oriented RMG factories.
- Directorate of Labour (DOL) has been upgraded to a Department where manpower of DoL has been increased from 712 to 921.
- A "Workers' Resource Centre" has been established through ILO support as a centre of excellence for workers training and awareness building.
- Occupational Safety and Health Policy, 2013 and Domestic Workers' Protection and Welfare Policy 2015 have been adopted.
- A labour helpline (16357) has been introduced by DIFE to receive complaints from workers and to act for proper redress of them.
- National, Divisional, District and Sub-District level Child labour monitoring committees have been activated.

The situation of labour rights and workplace safety in Bangladesh is being monitored by various bi-lateral, multi-lateral and international fora where the progress made by Bangladesh were sincerely recognized and appreciated.

European Union (EU) including the compact partners (USA, CANADA) recognized these developments through its 'Joint Conclusions' during the Third Follow-Up Meeting on Bangladesh Sustainability Compact Dhaka, May18, 2017 (2nd Para):

“The Partners recognize progress made in several areas of the Compact including recent increase in trade union registrations in Dhaka Division, work towards the development of standard operating procedures (SOPs) to better process applications for trade union registration, strengthening of Department of Inspection for Factories and Establishment (DIFE), formation of the Remediation Coordination Cell (RCC) and investment in factory safety with the initial implementation of corrective action plans. They also note the introduction of the concept of workplace cooperation and building a culture of occupational safety and health”.

ILO High Level Tripartite Mission to Bangladesh (17–20 April 2016) further noted:

“The mission welcomed the progress made by the Government in establishing an online system for trade union registration, the creation of a helpline for submission of labour

related complaints, training programmes for workers through industrial relations institutes and labour welfare centres, recruitment and training of labour inspectors, the increase of the MOLE budget, training and capacity-building of labour officers and strengthening the institutional capacity of the MOLE. The mission also noted the Government's continuing commitment to further improve the realization of freedom of association and social dialogue in Bangladesh, demonstrated by various initiatives" (Para 40 of the Mission Report).

Regarding industrial safety in Bangladesh, we would like to refer the article "Five year after Rana Plaza disaster; Bangladesh's garment industry now a model for workplace safety" published in The Daily Star dated 24 April 2018.

"Rob Wayss, Executive Director of Accord

The safety in Bangladesh's factories covered by the Accord has improved dramatically since 2013. Accord till date has covered 1,625 supplier factories. 88,443 safety hazards, in total, were identified in Accord's initial inspections of these factories. 74,386 of these safety hazardous have been fixed, representing 84.1 percent of the safety hazards identified.

Because of the work of the Accord, the Accord signatories, the garment manufacturers, and the tripartite partners in Bangladesh, the garment industry in Bangladesh can make very strong, empirically-supported assertions that it is the safest in the developing world."

"Jim Moriarty, Executive Director of Alliance

We have seen remarkable progress in workplace safety over the past five years. The 1.2 million women and men who earn a living in Alliance factories now work in building that are structurally sound, free of fire hazards and equipped with modern electrical systems, sprinklers and fire doors.

Also, more than 1.5 million workers and factory security guards have received fire safety and emergency evacuation training and another 1.5 million workers have access to a 24-hour helpline, allowing them to report safety concerns anonymously and without fear of retribution.

All of the 664 currently active Alliance factories are much safer than they were in 2013. Nearly 90 percent of remediation is complete, including 84 percent of items most critical to life safety, and we fully expect to complete our remaining remediation work this year."

With this in view, this document will respond to or clarify the issues mentioned in the complaint as below:

1. BANGLADESH LABOUR ACT VIOLATES CONVENTIONS 87 AND 98:

Bangladesh inherited most of its laws from the colonial British period. Since independence, Bangladesh has been parties to major UN, Human rights, ILO and other international conventions. National laws have been updated/framed in line with the principles of ratified international

instruments. Responding to the changing global scenario, massive change has taken place in the labour sector of Bangladesh in recent years. Bangladesh Labour Act, 2006, was enacted on 11 October 2006. Later on, 4th May 2008, 12th November 2009, 30th June 2010 22nd July 2013 and 24 October 2018 the labour law was consecutively amended for the benefit of the workers and the sector.

1.1 2013 Amendment of BLA:

Through the 2013 amendments positive steps were taken to make the Bangladesh Labour Act, 2006 (BLA, 2006) more relevant considering the changing world scenario and socio-economic condition of the country. **All amendments were made on the basis of tripartite consultation and mostly through consensus and in this process the ILO country office was actively involved.** Special importance was given to ensure workers' welfare, rights and safety; industrial safety and expansion of the industry; transparency in Trade Union registration and wage payment system; and promoting trade union practice and collective bargaining. Of the 354 articles in the BLA, 2006, 76 articles were amended and 7 new articles were included. The key features of amendments are:

- (1) **Formation of Trade Unions:** Provision has been deleted regarding prior submission of the list of workers intending to form Trade Unions to factory owners/management.
- (2) **Participation Committee:** The workers will have the right to form Participation Committee through direct election - where no trade union exists, the worker representatives of the participation committee may carry out all the activities related to the interests of the workers - at work places, under special circumstances.
- (3) **External Specialists:** An employer or a collective bargaining agent (CBA) may, if he or it deems necessary for carrying out collective bargaining activities, take assistance from outside specialists.
- (4) **Outsourcing Suppliers is Under Obligation of Registration:** The outsourcing company will also be brought under the law. They will have to get registration to continue their activities. All workers will get protection, as per the Labour Law regarding outsourcing. To extend the scope of the BLA to the educational, training and research institutions functioning for profit were brought under the BLA.

The ILO Direct Contacts Mission to Bangladesh (18-20 October 2015) mentioned in **its report (Summary: Key Findings and Conclusions of para 4f) that:**

“Amendments had been made to the Labour Act in 2013 and these now provide for better OSH standards”.

Therefore, “no further amendments have been made to the BLA on certain fundamental matters” as mentioned in the complaint” it is not supported by the facts presented above.

1.2 Comments of Committee of Experts on the draft amendments:

Considering the global and national perspective, a committee was formed on May 14, 2017 for further amendment of the Labour Law. The committee had 11 meetings with the Stakeholder, including the ILO, BEF, BGMEA, BKMEA, National Trade Union Federations, IndustriAll Bangladesh Council etc. An initial draft of the Act was shared with the stakeholders on 7 November, 2017. A Technical note was received from ILO on the initial draft of the BLA. To consider the views of ILO, another tripartite committee was formed by the Ministry. The tripartite committee conducted several meetings. Thereafter the views and concerns of the committee were shared by the Government with ILO Geneva on 21 November, 2017.

The complaint referred to the comments of the Committee of Experts on the draft amendments of BLA in its 2018 Annual Report. The Committee of Expert did not take into consideration the subsequent changes of the draft report which was made mostly in line with ILO conventions. For example, proposed amendments to section 210(10)- (12) that would enable a Conciliator to refer an industrial dispute to an arbitrator even if the parties do not agree, were finally omitted from the amendment. Therefore, inclusion of such information in the formal allegation is unexpected.

1.3 2018 amendments to the BLA:

The 2018 amendment of BLA, 2006 was passed at the National Parliament on October 23, 2018. To make the 2018 amendment of the Bangladesh Labour Act, 2006 more in line with the international standard, we were closely engaged with ILO. The draft was finalized through series of tripartite consultations with stakeholders. A summarized list of consultations is presented below:

05 June 2017: A 24-member labour law amendment committee (G-8, E-7, W-8) was formed. The committee conducted five meetings.

16 July 2017: To discuss and identify the courses of action based on the commitment made during 106th ILC in 2017, a high-level meeting was held headed by Minister for Commerce and attended by State Minister for labour, Ministry of Law, two secretaries of Prime minister's office, five other secretaries, executive chairman of BEPZA.

20 July 2017: Two special Tripartite (G-7, E-2, W-2) meetings headed by Principal Secretary of Prime Minister's office held on 02 August and 24 August 2017. Based on the recommendation of these meetings, a report containing proposal for amendment of BLA was shared with ILO on 31 August 2017.

08 November 2017: A Tripartite Committee (G-3, E-4, W-4) was formed to review the ILO observations on the draft Bangladesh Labour Act. The committee had three meetings and submitted a report based on which the proposed draft of BLA amendment was sent to ILO on 2017.

13 March 2018: Another Tripartite Committee (G-3, E-4, W-4) was formed to review the 2017 observation of the ILO Committee of Expert. The committee had five meetings.

09 May 2018: To finalize the draft amendment another committee was formed which submitted its' report on 23 May 2018.

TCC Meetings: Four meetings of Tripartite Consultative Council were held during May 2017 to September 2018.

Through 2018 amendment of the Bangladesh Labour Act, 2006, 59 sections have been amended, 12 sections have been repealed and 14 new sections have been inserted and some major concerns of ILO were addressed.

Major features are given below:

- (1) Reduction of membership [BLA Section 179(2)].
- (2) Restriction to form trade union in civil aviation has been lifted [BLA, Section 184].
- (3) The provision for cancellation of trade union due to violation of any of the basic provisions of its constitution had been also deleted [BLA Ssection 190(d)].
- (4) Automatic cancellation of union for not securing 10% of the casting vote in the CBA election had been deleted [BLA, Section 202(22)].
- (5) The power of CBA to gather subscription has been reduced. Now the non-CBA workers may collect subscriptions [BLA section 204].
- (6) In case of a trade union, participation committee would not be required [BLA, section 205(12)].
- (7) Requirement of support from two-thirds of the members by voting for the strike has been reduced to 51% [BLA, section 211(1)].
- (8) Penalties for illegal strike has been reduced [S-294, 295]
- (9) Penalty for Go-slow measures has been reduced (Section-296)
- (10) Penalty for Trade Union activities without registration has been reduced [Setion-299]
- (11) Penalties for dual membership have been reduced [BLA, Section 300].

In fact, reform in this sector is a continuous process. Responding to the global and national changing labour market scenario, labour related laws in Bangladesh have gone through a massive reform since 2006. Thus reform in labour sector has been a part of national political commitment of our government.

1.4 Bangladesh Labour Rules (BLR), 2015:

Similar to the BLA, the Bangladesh Labour Rules (BLR), 2015 was promulgated through tripartite consultation and on the basis of consensus.

Rule 167(4): The Rule 167(4) of the Bangladesh Labour Rules (BLR), 2015 deals with the right to form trade union by the agricultural farm workers. Previously, the agricultural farm workers did not have right to form trade union. Through the amendment of the BLA, 2006 in 2013 the agricultural farm workers have been provided this right. According to the Rule 167(4) of the Act workers engaged in field crop production may form **group of establishments**. In the Rule the

requirement was previously erroneously set as 400 farm workers to form a trade union. It is mentioned that the provision of the Rule had already been redefined through a gazette notification on 5 January 2017 (Annexure 1). The gazette had re-defined the jurisdiction. Now 400 workers need not be from a single farm, instead they might be from several farms within the same district. There are 18 trade unions of agricultural farm workers registered with the DoL.

The tripartite constituents were well aware of scraping the role of employers in electing the workers representative in participation committee. Accordingly, with the support from the SDIR project, election of worker representatives to 'Worker Participation Committees' without representation of employers is being piloted. Such piloting has already been completed in two factories.

Based on the 2018 amendments of BLA, 2006 and the BLR 2015 need to be updated. A committee has already been formed for this purpose where participation of all social partners has been ensured. The committee conducted three meetings.

According to the suggested action points to uphold the labour rights in Bangladesh, Ministry of Labour and Employment made a roadmap and submitted to EU in consultation with tripartite constituents that the amendment of BLR is expected to be completed by September 2020.

2. ARBITRARY REFUSAL TO REGISTER TRADE UNIONS:

2.1 Reason for rejection and repeated rejection:

The trade union registration process is clearly spelt out in the law. There are some conditions to be fulfilled for registration of trade unions set forth in the BLA. Applications for union registration are processed in accordance with the established procedures. If the registrar finds the application to be deficient in any material respect, it will be communicated in black and white within 12 days. The applicant is supposed to reply within 15 (fifteen) days of the receipt of the objection/observation. The whole procedure is clearly stated in the Standard Operating Procedure (SOP).

Common Reasons for Rejection:

If any application fails to meet the criterion for registration set in the Law, the applications are lawfully rejected and the causes of rejection are communicated in a transparent manner by **registered post**. No application is rejected without communication of the valid reasons. In order to make the registration process more transparent, the detail outcome of union registration applications was being made **publicly available** in the website of the department of Labour. Since the upgradation of software is under way, currently the outcome of the trade union applications cannot be made publicly available for a limited period. It is expected that the system will be in place by March 2020. From the website anyone will be able to see the information on submission and resolution of registration requests, including the reasons for rejections of applications.

All applications are duly disposed of following the BLA. There is no such case of arbitrary refusal. The Registrar of Trade Union refused those applications which did not fulfill the requirements of law. If any trade union under the signatures of its President and Secretary applies for registration to the Registrar of the Trade Union of the concerned area and comply with all the requirements, then the Registrar of the Trade Unions issues a registration certificate in the prescribed form. The applications are lawfully rejected if the applicants fail to meet the requirements like as follows:

- (A) Less than the minimum membership of 20% (which was 30% before the amendment of BLA, 2006)
- (B) If no address of the proposed union is found.
- (C) Due to existence of more than 3 Trade Unions in the designated area.
- (D) Due to incompleteness of essential information and records such as Form 55(ka) (application of membership).
- (E) If the executive member of the proposed union is not a permanent employee.
- (F) If the concerned parties are not able to meet the objection raised by Register of Trade Unions within 15 days the registration application will be filed without any action [BLA Section: 182].

In addition, in the event of a rejection, any aggrieved party may opt to appeal to the Labour Court within 30 days of rejection.

It may be mentioned that there is no case of arbitrary refusal. Application of registration is lawfully rejected if the requirement set in the act is not fulfilled.

Common Causes of Repeated Rejection:

If any application of union registration due to non-fulfillment of the requirements of union registration or if there is any missing information in the application, the Registrar of Trade Unions communicates in writing its observation on the application. The applicant may submit the application again by meeting the observations or may opt to appeal to the Labour Court within 30 days of rejection. Sometimes, the applicants, instead of taking legal action by filing cases in the Labour Courts, repeatedly submit faulty application without rectification of the application to the Registrar of Trade Unions. This might cause for repeated rejection.

2.2 Steps Taken for Simplification of Union Registration:

Legal and administrative measures have taken place to promote trade union registration.

Upgradation of Department of Labour: Apart from legal instruments, institutions play an important role in upholding freedom of association. For effective enforcement of the Bangladesh Labour Act, the Government of Bangladesh has completed upgradation of the Directorate of Labour (DOL) to a Department of Labour on 27 November, 2017 with increased manpower from 712 to 921.

Before upgradation, in addition to Head Office, there were 04 Divisional Labour Offices, 10 Regional offices, 4 Industrial Relation Institute (IRIs) and 32 Labour Welfare Centers. Presently, after upgradation, in addition to the Head Office, there are 06 Divisional Labour Offices, 9 Regional, 4 IRIs and 32 LWCs.

The budget of the Department has also increased to BDT 261.3 million in 2016-17, BDT 301.5 million in 2017-18, BDT 380.3.Million in 2018-19 and 400.1 in 2019-20 million respectively.

Measures to simplify registration process: Following legal changes have been taken to simplify union registration process through 2013 and 2018 amendments to the Bangladesh Labour Act, 2006 (BLA, 2006).

- (1) **Reduced membership to form union from 30% to 20%. Subsequent reduction may be considered and agreed in due course of time [BLA section 179(2)].**
- (2) Time limit for registration reduced from 60 to 55 days through adoption of the Standard Operating Procedures (SOPs) for greater transparency and accountability [BLA section 182(4)].
- (3) Restriction to form trade union in civil aviation has been lifted [BLA section 184].
- (4) Provisions of SOPs (Standard Operating Procedures) related to Anti Trade Union Discrimination has been incorporated in the Act [BLA section 196 a(2)].
- (5) The provision for automatic cancellation of union for not securing 10% of the casting vote in the CBA election has been deleted [BLA section 202(22)].

In December, 2012 there were 6580 registered trade unions which has further increased to 8218 as on 31 December 2019. During the same period, the number of trade unions has been increased from 132 to 880 in the RMG sector.

The adoption of the SOPs on 22 May, 2017 is a clear indication of willingness of the government to ensure transparency in union registration system. The concerned official has been trained on SOPs. All concerned officials of Department of Labour are following the SOPs in processing applications for union registration. The introduction of SOPs relating to trade union registration has resulted into smooth and transparent union registration.

In recent years, the rate of success in union registration has increased remarkably. Before adoption of SOP the rate of success in union registration was about 60% in 2014, 46% in 2015, 62% in 2016 and 65% in 2017 while after SOP, it has increased to 79.85% in 2017, 74.85% in 2018 and 77.25% as of 31 December 2019.

Beneficial Impact of SOPs:

The Standard Operating Procedures (SOPs) for trade union registration was adopted on 22 May, 2017. Through adoption of SOPs, time requirement has been reduced from 60 days to 55 days, 5 days was deducted from the Government part. The SOPs for Union Registration has been incorporated in the amendment of BLA as a new section. The concerned officials have been trained

on SOPs. To facilitate union the trade functions of DOL have been decentralized to 15 field offices after up-gradation of the Department.

The union registration process broadly comprises of examination, rectification and decision on application registration. Previously there was no timeline for each step. Officials of the DOL at different offices could follow different timeframe. The SOP has specified timeframe for each activity for union registration and thereby ensures transparency in the process. The adoption of Standard Operating Procedures (SOPs) will facilitate uniform disposal of each activities of union registration and help bring more transparency in the trade union registration process.

Online trade union registration:

Online registration system for trade unions and trade union federations was officially launched by DOL with the support of ILO in April 2015. The Rule 168(7) of Bangladesh Labour Rules, 2015 details out the online trade union registration. However, **it is not yet mandatory**. Both the service providers at DOL and workers are not well acquainted with the online system. Workers' representatives are not well accustomed with the ICT and often they don't have proper knowledge about ICT as well as of online registration. Moreover, for an application, a huge volume of documents is required to be submitted. Therefore, both the applicants and the service providers **partially follow the online system** of trade union registration. Intensive training is required for online registration for which we have already requested ILO, Dhaka for technical assistance.

Before upgradation, only the Head Office and the 04 Divisional Labour Offices were mandated for giving registration and were given access to the Online Trade Union registration System. After upgradation, 02 Divisional offices were established and corresponding mandate of giving the registration was given accordingly. At the same time mandate of giving the registration was decentralized to 09 Regional Labour Offices. Now 16 DoL offices (Head Office, 06 Divisional Labour Offices and 09 Regional Labour Offices) are mandated to register the trade unions. However, since the upgradation of the software is underway, the offices are not provided with the access of online registration for the time being. Therefore, due to the mentioned administrative and technical reasons the online registration is currently not functional but will be functional very soon.

It is being clarified that rest of the trade union applications (509) received online (mentioned in the last report) were processed manually. It may be noted that since the online registration system is still not mandatory, the whole process of union registration is not done online. A combination of manual and online process is still being followed. At this stage, it is not possible to mention exactly how many applications were granted.

3. ANTI-UNION DISCRIMINATION IS COMMONPLACE:

The Bangladesh Labour Act, 2006 (BLA 2006) (as amended in 2013 and 2018) provides specific provisions to protect trade union activities. Anti-union discrimination or unfair labour practices (ULP) in any form is a violation of law and subject to legal actions. The Directorate of Labour (DoL) is authorized to receive complaints on unfair labour practices. According to the provisions

of the Labour Act, every aggrieved worker has the right to file complaints to the Directorate of Labour for remedial action against management for anti-union activities or ULPs.

3.1 SOPs to address anti-union discrimination or ULP: With the support from the SDIR project, Standard Operating Procedures (SOPs) for unfair labour practices and anti-union discrimination have been adopted in August 2017 after consultation with the relevant stakeholders. It is hoped that the SOPs will facilitate easy handling and investigation of cases of anti-union discrimination or unfair labour practices in a transparent manner. The SOPs will ensure uniform disposal of anti-union discrimination and ULPs all over the country. To further strengthen legal basis for protecting anti-union discrimination, the SOPS on anti-union discrimination and unfair labour practices (ULPs) have been incorporated in amendment of BLA.

3.3 Public database on Anti-union Discrimination or ULP:

Publicly Accessible Database: With the assistance of ILO under the SDIR project the 'Publicly Accessible Database' was established and some information was made available on pilot basis. Currently we are working to upgrade the software. Therefore, the data is not available at this movement. Once the upgradation is complete and database is up-to-date, the information of trade union registration, trade union rejection, number of trade union application filed, sector wise federation registration, national federation registration, confederation registration, trade union related court cases, conciliation, CBA election, anti-union discrimination, participation committee will be available at a single platform.

It may be mentioned that the publicly available database was at a pilot stage. However, the reasons for rejection of the applications for registration, whether available in the website or not, were duly communicated to the applicants following the provisions of BLA, 2006.

3.4 Capacity-building of labour officers to deal with anti-union discrimination cases:

To develop a credible, efficient and transparent system of arbitration and conciliation the "Social Dialogue and Harmonious Industrial Relations (SDIR)" project has conducted capacity building training courses for DoL Officials, Judges, Lawyers and employers on handling of cases of anti-union discrimination or ULPs. Initiative has taken to conduct factory level training for workers on anti-union discrimination and unfair labour practice in collaboration with the SDIR project.

A "Workers' Resource Centre" has been established through ILO support as a centre of excellence for workers training and awareness building

Helpline: DIFE has introduced a helpline on 15 March 2015 by which different complaints are received and resolved related to workplace. To ensure decent workplace and to reduce labor unrest different issues like salary benefit, service benefit, maternity benefit, job security etc. have been handling by DIFE. The Helpline has been launched on a pilot basis for RMG workers in a particular RMG intensive area (Ashulia). Although the helpline targets RMG workers in Ashulia, complaints received from other geographical areas and other industrial sectors are also being addressed by

Department of Inspection (DIFE). After gaining sufficient experiences from the pilot operations, the government will formally replicate/expand the model in other areas and industrial sectors.

Another labour helpline (16357) has been introduced by DIFE to receive complaints from workers and to act for proper redress of them.

Helpline Work Procedure:

- 1) Complaints coming through the helpline are received by a private vendor.
- 2) The vendor transfers those complaints to the respective District Offices of DIFE.
- 3) Deputy Inspector General (DIG) of the concerned District Office assigns a Labor Inspector to investigate the complaint.
- 4) The Labor Inspector investigates the complaint and resolves the issue and submits an investigation report to the DIG.

Mitigation of any complaint submitted can be done in three ways:

- a) Through Tripartite meeting (BLA Section-124A).
- b) DIFE office communicates the complaint to the factory management and factory management resolves the complaint.
- c) Legal action by DIFE through filing of cases at the labour courts.

Through helpline, from March, 2015 to December, 2019 a total 3872 complaints were received at DIFE from all sectors of which 3860 complaints were resolved and 12 complaints were pending for the following year (see the table below). In 2015-16, about 61% of the complaints were from the RMG sector which reached at about 70% in 2019.

Year	Complaint Received	Complaint Resolved	% of complaints received from RMG Sector
March 2015- June 2016	1145	1145	61.56%
July 2016- June 2017	774	774	51.03%
July 2017- June 2018	620	620	40.32%
July 2018- June 2019	863	863	70.68%
July 2019- December 2019	470	458	69.79%
Total	3872	3860	-

Time to solve the complaint depends on the nature and complexity of the complaint.

3.5 Addressing Anti-Union Cases:

There are seven stages to resolve complaints of anti-union discrimination as per SOP:

(1) Written Complaint, (2) Verification, (3) Communication, (4) Investigation, (5) Resolution, (6) Record, and (7) Referral to the Labour Court.

After receiving the written complaint, DOL verifies whether the complaint relates to an issue of ULP and anti-union Discrimination or not. If yes, then as per necessary requirement, DOL will forward the complaint to the employer to provide a written response. Upon receipt of written response or not, DOL will appoint an investigation team (consists of minimum two members). By issuing written notice for the both parties (plaintiff and employer) investigation team will meet separately with the both parties separately and will try to collect information and witness statement with signature. Investigation team may also arrange for a joint meeting with the both parties to clarify the facts, reviewing available evidence or exploring possible solution to address the complaint, DOL keeps all of the record of the complaints from both parties.

Finally, the investigation team will write an investigation report which includes a conclusion as to the alleged ULP and anti-union discrimination and as relevant, a recommendation for its resolution. In all cases, the investigation team will indicate whether he/she considers that there has been a violation of the workers' fundamental right to freedom of association.

If DOL finds that there has not been an ULP and anti-union Discrimination, it will notify both parties with attachment of the investigation report and the case is terminated at the point. However, the petitioner is free to further pursue his/her complaint at the labour court.

At the last stage, if DOL finds that there has really been an ULP and anti-union discrimination but the employer does not comply in the timely manner with the resolution recommended by the DoL, then it shall lodge a complaint to the Labour Court under section 313(2-b) and 313(4-b) of the BLA 2006.

Number of Anti-Union Complaints:

From 2013 to 2019, 270 complaints regarding 'Anti-Union Discrimination and Unfair Labor Practice' were submitted to Divisional Labour Office, Dhaka.

Year	Previous Pending	New Complaints	Total	Disposal			Pending (Under Process)	Addressed Rate (%)
				Case Filed	Settled Otherwise	Total		
A	B	C	D=(B+C)	E	F	G=(E+F)	H=(D-G)	I
2013	08	07	15	01	00	01	14	100%
2014	14	09	23	02	00	02	21	100%
2015	21	23	44	01	00	01	43	100%
2016	43	46	89	24	45	69	20	100%
2017	20	40	60	16	29	45	15	100%
2018	15	29	44	04	20	24	20	100%
2019	20	108	128	04	58	62	66	100%
		270		52	152	204		

Note:

Settled otherwise: Reinstatement, compensation, Memorandum of Understanding, arrear wages etc.

Case filled: Complaint referred to the labour courts by department of labour.

Labour courts :

There are 7 Labour Courts in Bangladesh. Recently 3 (three) new Labour Courts have been established to expedite trial (still to be fully functional). In addition, establishment of four more labour courts is under process.

3.6 The acts of anti-union discrimination mentioned in Case 3203:

In this complaint 10 specific cases were mentioned by the ITUC. All cases of anti-union discriminations were duly investigated by the Department of Labour, Bangladesh. The cases were amicably settled. Only two cases are pending now for which information has been provided in the following section (a), (b) and (c). Notarized copies of all agreements and judgments are attached.

3.7 Gender-based violence often against women workers and unionists:

As per the directives of the honorable High Court, most of the enterprise has formed 'Anti Sexual Harassment Committee' to protect gender-based violence in the workplace. .

In addition, Ministry of Labour and Employment is formulating a gender strategy titled 'Operational Strategy to Prevent and Respond to Gender-based Violence and Gender Discrimination in the Work Place'.

3.8 Unfair labour practice complaint submitted to the Department of Labour on January 23, 2019

The allegation that the Department of Labour did not address the two cases of anti-union discrimination (at Al Gausia Textile Sramik Union and at FNF Trend Fashion Ltd. Sramik Karmachari Union) submitted to Divisional Labour Office, Dhaka on 23 January, 2019 is not true. Both complaints were duly addressed and the detail of which is provided below:

Al Gausia Textile Sramik Union (Reg. No Dhaka 5320): The President and General Secretary of Al Gausia Textile Sramik Union (Reg. No Dhaka 5320) submitted a complaint on the ground of intimidation, harassment and dismiss due to submission of charter of demand. Two investigation officers (Deputy Director and Labour Officer) investigated the complaint and submitted a report on 29 April, 2019. This case is already amicably settled. The investigation officers recommended to file a criminal case against the Management (Mr. Windy, M.D and Azmol Hoq, Manager of the factory of Al Gausia Textile Ltd.) on the ground of BLA section 195 (b, c and d). The case no. 227/2019 is filed on 28 May, 2019 before 1st Labour Court. The date of first hearing was fixed on 5 August, 2019. The next date is on 06 February 2020.

FNF Trend Fashion Ltd. Sramik Karmachari Union (Rejected): The President and General Secretary of rejected union submitted a complaint on the ground of intimidation, harassment and abstention from work due to organization of a union. The application of registration named FNF Trend Fashion Ltd. Sramik Karmachari Union was rejected on 18.11.2018 due to lack of minimum requirements of membership and mismatch of signatures in the salary sheet provided by Management. After two months of the rejection of that said union, two former executive members (President and General Secretary of the executive committee) filed an anti-union complaint in Divisional Labour Office, Dhaka on 23 January, 2019.

Meanwhile, the Management lodged a police case no. 218(20)5 dated 17.01.2019 against 53 workers at Ashulia Thana. These workers were accused of violent activities and destruction of the property of the factory premises. The two former executive members named Md. Arif Mia and Md. Robiul Islam of that rejected union were also accused in that police case. Police are investigating that case. Divisional Labour Office, Dhaka also appointed two investigation officers. Later on, the anti-union complaint was withdrawn by complainants after the agreement dated 06/08/2019 between the management and the complainants in the presence of DoL Officials. **The complainants received all due payments and the case is resolved.**

2018 minimum wage Termination:

A factory-wise list of termination of workers during December, 2018 and January, 2019 was received from the social partners according to which a number of 12,436 workers were dismissed from 104 factories. However, through primary verification of the list by the BGMEA and BKMEA, it was found that there were 94 factories by omitting 10 duplications and 4489 workers were actually terminated from 41 factories.

All terminated workers received all benefits according to the existing provisions of BLA, 2006.

4. WORKERS ARE DENIED FUNDAMENTAL RIGHTS IN EXPORT PROCESSING ZONES (EPZs):

4.1 Workers Rights in Export Processing Zones (EPZs)

From the inception, EPZs are operating by special law, rules and regulation as a special entity. Accordingly, agreements are being signed between Bangladesh Export Processing Zones Authority (BEPZA) and the investors. In reality, the EPZs workers get more wages/salary and other benefits compared to the outside workers. EPZs Workers get 45%-50% higher salary/wages than that of non EPZs area.

The Government of Bangladesh is committed to ensure the protection of the rights and privileges of the workers as well as to provide a congenial environment to the investors in EPZs. In recent years remarkable progress has been made in respect of legal and policy reforms, particularly in improving the rights of workers' association and the rights of collective bargaining, workplace safety, wages, skill development and labour welfares. Some of which are as follows:

- The government enacted 'The EPZ Workers' Association and Industrial Relations Act, 2004 (EWAIRA)' and 'The EPZ Workers' Welfare Association and Industrial Relations Act, 2010 (EWWAIRA)' through legislative framework by the Parliament. Noteworthy, 'EWWAIRA' was enacted in consultation with and consensus of USA, ILO, World Bank, AFL-CIO, Solidarity Center, JICA, Korean Embassy and other relevant stakeholders. It is learnt that the procedures of forming workers association in USA was also followed in the case of EWWAIRA.
- In the last 09 years, minimum wages and other benefits of EPZ workers have been increased thrice, respectively 60% in 2010, 67% in 2013 and 47% in 2018.
- A mandatory provident fund policy has been formulated and circulated for workers and employees working in EPZs.
- 08 hospitals in 08 EPZs are providing 24/7 hours free treatment & medicines to the EPZs workers.
- The children of EPZs Workers get privileges and subsidized education in BEPZA-run school and colleges.
- 02 Training Centres have been established in Chattogram EPZ and Dhaka EPZ. In last 5 years BEPZA has organized more than 1100 training/ awareness/motivational program for the WWA members and workers.
- A fund has been created for educational, social, environmental awareness, skill development, training program along with other welfare measures for the workers.
- In addition, EPZs Workers get various additional benefits like up to 10% Annual increment (Outside it is 5%), 2 Festivals Bonuses (Equal to 2 basic salaries), Encashment of Earned Leave, Promotion, Foreign training etc.
- In 1989 to ensure and to uphold the worker rights, BEPZA established Industrial Relation (IR) Department in each zone and developed its own mechanism of labour relation and inspection. IR Department of BEPZA bridges harmony between workers and management in the zones. Inspection system of BEPZA is effective, transparent, accountable and scalable. The inspection module has been developed in collaboration with International Finance Corporation (IFC) in line with international labour standards. The ratio of inspector and enterprise operating in EPZs is 1:2. Inspections are carried out in four dimensions i.e. Social compliance, Environmental compliance, Fire safety & security and Building safety. Transparency, accountability and responsibility are being ensured in every level of the inspection system.
- With a view to further strengthening and consolidating the workers' rights in EPZs complying with ILO Conventions, the government has enacted 'The Bangladesh EPZ Labour Act, 2019' through legislative framework by the Parliament on 27 February 2019. The Act strongly upholds the rights and privileges of the workers as well as congenial, safe and decent working environment in the EPZs of Bangladesh.

4.2 Freedom of Association & collective Bargaining Rights in EPZs (In respect to ILO Convention 87 & 98):

At the EPZs, workers have the right and freedom to form Workers Welfare Association (WWA) and the right of collective bargaining (CBA) in line with ILO Convention 87 & 98. The Workers' Welfare Associations (WWA) registered under the Act in an industrial unit is the Collective Bargaining Agent (CBA) for that industrial unit. It has the right to negotiate directly with the employer on wages, working hours and other terms and conditions of employment. The EPZ workers enjoy all sorts of facilities for dispute resolution, free counseling, conciliation and arbitration. EPZ Labor Courts and Labor Appellate Tribunals further facilitate to hold up legal rights which are as follows

- a) **Freedom of Association (Convention-87):** According to the Chapter IX of Bangladesh EPZ Labour Act-2019 the workers have the right to form Workers' Welfare Association (WWA). As on May 2019, WWA have been formed and registered in 74% of the enterprises in EPZs.
- b) **Collective Bargaining Agent (Convention-98):** As per section 119 of Bangladesh EPZ Labour Act-2019, WWA registered under this Act at an industrial unit is the Collective Bargaining Agent (CBA) for that industrial unit. WWA/CBA(s) have the right to negotiate directly with the employer on wages, working hours and other terms and conditions of employment. To date, all 237 elected & registered WWAs/CBAs are actively performing their activities with full freedom. During the last 5 years WWAs (CBAs) within the EPZs had submitted 521 Charter of demands, all of which had been negotiated successfully and agreements/ Memorandum of Understanding (MoU) were signed.
- c) **Strike and Lock out:** EPZs Workers have the right to strike from 1st January 2014.
- d) **Alternative Dispute Resolution:** 60 Social Counselors are engaged to counsel the workers regarding their rights and responsibilities as well as assist both the workers and owners of enterprises to solve work related issues through Alternative Dispute Resolution (ADR) method.
- e) **Conciliation and Arbitration:** To provide legal support to the workers and to resolve industrial dispute 03 (Three) Conciliators and 03 (Three) Arbitrators have been employed.
- f) **EPZ Labour Courts and EPZ Labour Appellate Tribunal:** 08 Labour Courts and 01 (One) Labour Appellate Tribunal have been set up to settle labour-related disputes in EPZs.
- g) **Workers' Welfare Fund:** A fund has been created for educational, social, environmental awareness, skill development program along with other welfare measures for the workers.
- h) **Free Health facility:** 08 Medical centers in 8 EPZs are providing 24/7 hours free treatment & medicines to the EPZs workers.
- i) **Education Facility:** The children of EPZs workers get privileges and subsidized education in BEPZA-run School and Colleges.
- j) **Training:** In last 5 years BEPZA has organized more than 1100 training/ awareness/motivational program for the WWA members and workers.
- k) **Salary/Wages:** EPZs workers get 45%-50% higher salary/wages than that of non-EPZs area.

- I) **Additional Benefits:** EPZs workers get various additional benefits like up to 10% Annual increment (outside it is 5%), 2 Festivals Bonuses (Equal to 2 basic salaries), Encashment of Earned Leave, Promotion, Foreign training etc.

4.3 Inspections in EPZs (In respect to ILO Convention 81)

Inspectors and enterprises operating in EPZs are at 2:1 ratio. All the inspectors including the Counsellor- cum-Inspectors are well trained and professional in their respective fields. In addition to the inspection, they also counsel the workers regarding their rights and responsibilities. Moreover, they assist both the workers and employers of enterprises to solve work related issues through 'Alternative Dispute Resolution' (ADR) method which is appreciated around the world.

Inspections are carried out in four dimensions i.e. Social compliance, Environmental compliance, Fire safety & security and Building safety. Transparency, accountability and responsibility are being ensured in every level of the inspection system.

- **60 Social Inspectors** are efficiently engaged for the inspections of labour rights & social compliance issues. Social compliance issues are being ensured as per IFC Module based on 62 parameters including minimum wages, OSH, maternity benefits, working hour, leave & holidays etc., in line with international labour standards.
- **30 Environmental Inspectors** are involved in ensuring environmental safety of the enterprises including ETP & WTP in EPZs. Environmental safety including ETP, WTP is being ensured as per IFC module on the basis of 10 environmental parameters.
- **45 Industrial Relations Officers** are continuously working on ensuring overall labour rights & compliance issues.
- **02 Environmental Specialists** have been employed to coordinate the environmental safety.
- **129 Engineers of BEPZA (Civil, Electrical & Mechanical)** regularly monitor and ensure all compliance issues of Building and Structural safety as per BNBC & BEPZA building code. EPZ enterprises have to obtain Building Safety Certificate from BUET, DUET, CUET, KUET and RUET with basic information of 14 parameters.
- **02 Fire Consultants** are coordinating the fire safety compliance issues of EPZ enterprises. Fire safety inspections are conducted on 15 parameters. Every EPZ has its own Fire Station. All enterprises have to obtain Fire License from Fire Service and Civil Defense Department of Bangladesh.
- **28 Security Officers** are engaged for ensuring overall security & surveillance system of the enterprises of EPZ. A strong, organized & disciplined security force headed by a Colonel deputed from Bangladesh Army is efficiently occupied to ensure lives & properties within the EPZs.

4. Enactment Bangladesh EPZ Labour Act, 2019:

Aiming at better compliance with international labour standards a draft EPZ Labour law was formulated by a high-level committee headed by the Senior Secretary of Prime Minister's Office (PMO) after a pragmatic and neutral analysis of the socio-economic conditions of the country. Drafting of the Bangladesh EPZ Labour Act, 2019 has gone through a long process of consultation and dialogue. Extensive and inclusive dialogue and consultations with all levels of stakeholders were held before finalizing the draft. (Information was provided previously to the committee).

(a) Following the commitment made by Bangladesh during 106th ILC held in 2017 consultations with stakeholder & social partners on drafting EPZ Labour Act:

Comprehensive and **inclusive consultations** with all levels of stakeholders were held **during 2017-2018** on drafting the EPZ Labour Act, as mentioned below:

- On 16 July 2017, a high-level meeting was held by the chair of Hon'ble Minister, Ministry of Commerce in presence of Hon'ble Minister, Ministry of Law, Justice and Parliamentary Affairs along with the State Minister, Ministry of Labour and Employment with all stakeholders.
- On 20 July 2017 a Special Committee consisting of Government, Owners' and Workers' representatives was formed headed by the Principal Secretary, Prime Minister's Office to co-ordinate the activities of re-drafting of proposed Bangladesh EPZ Labour Act.
- In order to accommodate the ILO observations & EU's expectations related to proposed EPZ labour Act, the Special Committee conducted meetings with concerned stakeholders and social partners during 02 -24 August 2017.
- BEPZA conducted a series of meetings with ILO-Dhaka, Workers Welfare Associations (WWA/CBA) and Investors of EPZs on different dates during 30 July- 13 August 2017.
- On 24 August 2017 Re-drafted Act was finalized through tripartite consultation by reviewing the comments and opinions of all stakeholders by the Special Committee formed in this regard.
- Special Committee submitted the Re-drafted Act to the Ministry of Commerce on 28 August, 2017.
- Re-drafted Bangladesh EPZ labour Act was sent to ILO on 31 August 2017.
- On request of ILO English version of the Re-drafted Act was sent on 28 September 2017.
- Re-drafted Act (English version) had been shared with EU on 23 October 2017.
- On 26 October 2017 a discussion meeting was held with EU on the progress of the commitments made by Bangladesh at International Labour Conference-106 on June, 2017.
- On 29 October 2017 a high-level review meeting was held by the Chair, Hon'ble Minister, Ministry of Commerce in presence of Hon'ble Minister, Ministry of Law, Justice and Parliamentary Affairs along with Hon'ble State Minister, Ministry of Labour and Employment with all stakeholders.
- On 30 October 2017 a further discussion meeting was held with ILO and EU representatives by the Chair, Hon'ble Minister, Ministry of Commerce in presence of Hon'ble Minister, Ministry of Law, Justice and Parliamentary Affairs along with Hon'ble State Minister, Ministry of Labour and Employment and all stakeholders.

- On 21 November 2017 a tripartite consultation meeting was held chaired by the Hon'ble Commerce Minister with participation of Hon'ble Law Minister and State Minister of Labour and Employment, Executive Chairman, BEPZA, Chairman of Bangladesh EPZ Investors' Association, Workers' Representatives and other stakeholders. In the meeting, a threadbare discussion was held on the Re-drafted EPZ labour bill on the basis of ILO observation.
- On 26 February 2018 a tripartite consultation meeting was held chaired by the Hon'ble Commerce Minister in presence of Hon'ble Law Minister and State Minister of Labour and Employment, Ministry of Labour and Employment, Executive Chairman, BEPZA, Chairman of Bangladesh EPZ Investors' Association, Workers' Representatives and other stakeholders. At the meeting, each and every observation given by ILO Committee of Experts was discussed in details.
- On 07 May 2018 further a tripartite review meeting was held chaired by the Hon'ble Commerce Minister to examine the observations given by ILO Committee of Experts where every observation was discussed in details.
- On 20 June 2018 a high-level meeting was held chaired by the Hon'ble Commerce Minister to review the observation provided by ILO.

Finally, with a view to strengthening and consolidating the workers' rights in EPZs and simultaneously complying with ILO Conventions, the Government has enacted "The Bangladesh EPZ Labour Act, 2019" through legislative framework by the Parliament. The Act strongly upholds the rights and privileges of the workers as well as congenial, safe and decent working environment in the EPZs of Bangladesh.

(b) Revisiting Draft EPZ Labour Act based on ILO Observations:

Following the commitment made by Bangladesh in the Conference Committee in June, 2017 a draft of the new EPZ Labour Act was prepared through tripartite consultation and was shared with the ILO Committee of Experts through ILO Country Office for Bangladesh by 31 August, 2017. Before the June 2017 ILC Draft EPZ Labour Act was vetted by the Cabinet and transferred for adoption to the Standing Committee for Law, Justice and Parliamentary Affairs of the Parliament. Additionally, based on the concerns raised by the International Labour Standard Department of ILO in a Technical Note on 7 November, 2017 the draft EPZ Labour Act was revisited and shared again with the ILO on 21 November 2017.

The proposed Act governing the EPZs, in an unprecedented move was recalled by the Government to further review in order to accommodate the 2017 observations of the ILO Committee of Expert in line with the ILO core Convention. Based on the 2018 observations of the ILO Committee of Experts, the draft EPZ Labour Act was further examined. The EPZ Labour Act, 2019 was finally passed by the Parliament on 27 February, 2019. Accordingly, the Law was published by the Gazette Notification (Act 2 Of 2019) on 28 February 2019.

(c) Main features of the amendment:

Taking into the highest consideration of the recommendations of ILO, USA, EU, Solidarity Center, Social partners and other stakeholders and above all, the observations that ILO Committee of Experts provided during 2016-2018, the proposed EPZ labour law was thoroughly examined and following major changes, among others, have been made in the Bangladesh EPZ Labour Act, 2019 are as follows:

- The provision of referendum which was a major observation by ILO and compact partners has been repealed.
- The process of formation and registration of Workers Welfare Association (WWA) have been simplified.
- The steps of formation of WWA have been minimized from 12 steps to 03 steps.
- The provision of prohibiting referendum for 01 year after a failed referendum has been repealed.
- The provision of no association in a new industrial unit for three months has been removed.
- Interference in the internal affairs such as the provision of approval of the constitution of WWA has been repealed.
- The provision of deregistration of WWA has been repealed
- Threshold for formation of Workers' Welfare Association (WWA) has been reduced from 30% to 20% similar to BLA.
- The provision of formation of Federation of the Workers' Welfare Association within the concerned zone has been incorporated.
- Incorporation of the provision of inspections by Chief Inspectors along with other inspectors under Bangladesh Labour Act with the existing robust inspection system of BEPZA.
- The rights of strike and lock-out, etc have been ensured in the act;
- Blacklisting practice within EPZ is abolished (in EPZs there were practice of black listing due to disorderliness, riot, vandalism, arson or breakage in the establishment);
- Retirement and job separation benefits, death compensation, etc have been incorporated;
- Working hours, Leave & Holiday, Health & Hygiene, Social Security, Occupational Health and Safety, Safety at Work Place, etc have been ensured in Act.
- The inspection and administration system of EPZ has been brought in line with BLA.
- The consent of the workers representatives to call strike has been reduced from three-fourths to two-third;
- The provision related to constitution of the workers welfare association has been reconstructed in line with BLA;
- The provision of "Eligible Worker" has been deleted;
- The Word "Mainly" has been omitted from the relevant section to elaborate the sense of workers' functions;

- The provision of executing further Executive Council election has been revised by reducing 1 year to 6 months;
- Other sections are similar to BLA such as: punishments, etc.

(d) Observations of the Committee of Experts:

The EPZ Labour Act, 2019 has been adopted recently through wide range of consultations with social partners. Considering the present socio-economic conditions of the country, comprehensive changes and measurable progress have been made in the EPZ Labour Act, 2019. It is to be noted that the Bangladesh EPZ Labour Act, 2019 commensurate with Bangladesh Labour Act and existing national & international rules, norms and practices. **The comments of the Committee of Experts were made on the draft Act.**

However, through the aide memoire of ILO on 20th May, 2019 ILO has provided comments on the final EPZ Labour Act, 2019. Some of the observations have already been addressed.

There is always scope of further improvement and reformation of existing laws and provision. Hence, issue of further revision of the Act will be submitted before the Committee to be formed by the government in this regard and as per recommendations of that Committee necessary steps will be taken.

(e) Labour Inspection in EPZs by DIFE Inspectors:

The provision of inspections by the Department of Inspection for Factories and Establishments (DIFE) under Bangladesh Labour Act has been incorporated in the “Bangladesh EPZ Labour Act, 2019”. Keeping in views of the separate entity of the two laws, inspection and administration system of EPZ has been brought in line with the Bangladesh Labour Act (BLA). Massive structural changes have been made to bring the inspection and administration system of EPZ in line with BLA considering the existing robust inspection system, mode of operation, manpower, capacity & competency and one window same day services of EPZ. Meantime, the Inspector General of DIFE jointly with the BEPZA officials has already visited and inspected following five factories in EPZ:

- (1) M/s Talisman Ltd, Dhaka EPZ.
- (2) M/s YKK Bangladesh Pte Ltd, Dhaka EPZ. Product: zipper
- (3) M/s Hop Yick (Bangladesh) Ltd, Dhaka EPZ. Product: intimate apparels
- (4) M/s R.S.B Industrial Ltd, Chattogram EPZ.
- (5) M/s Kenpark Bangladesh Private Ltd., Chattogram EPZ.

At present, Inspectors of DIFE along with the BEPZA are inspecting the factories in EPZs.

(f) Results of the inspection :

Considering the existing robust inspection system, manpower, capacity & competency and one window same day services of EPZ, discussions & consultations with the workers, investors & relevant stakeholders is going on to find out how best DIFE may be allied with the existing system of inspections in EPZ. To frame a better inspection strategy 2 (two) discussion meetings on 02 April, 2019 and subsequently on 29 July 2019 were held between ILO, Dhaka office and BEPZA.

Further discussions among ILO, DIFE and BEPZA are in process to develop an integrated inspection framework. Once the inspection framework is developed, it will be shared.

4.5 Protection against anti-union discrimination in EPZ:

BEPZA is committed to a transparent process of implementation of the EPZ Labour Laws. Section 94 (4) of Bangladesh EPZ labour Act, 2019 clearly revealed that no employer shall in any manner discriminate against any worker for the activities related to WWA and any such discrimination shall be deemed to be an unfair Labour practice.

In EPZ, workers can submit their anonymous complaints directly to the Counsellor cum Inspectors, industrial relation officers, General Manager of concerned zone or the Executive office of BEPZA. Every complaint received from workers are investigated neutrally and resolved with proper compliance to the existing laws, rules and regulations by the concerned officials of BEPZA. The official website (http://bepza.gov.bd/details/enquery_form) of BEPZA has an enquiry option where anyone can drop a message or query or complaint to the Authority. BEPZA also has an official Facebook page where workers, investors and employees of BEPZA can post update and get information. Each EPZ office has a complaint box where the workers can drop compliant and get assistance from the zone Authority directly.

The inspectors of BEPZA are continuously monitoring the working conditions, complaints and grievances of the workers proactively. The inspectors conduct spontaneous visits to the enterprises at any time to assess the actual working condition of a factory. Inspectors report the findings of their inspection directly to the Executive Chairman of BEPZA. The inspection reports are also shared with all concerned departments of zone and Executive office for necessary action at their end. If any irregularity is found in the inspection report, the matter is then communicated to the concerned enterprise and sometimes meetings are held and proper follow up is continued until the issue is solved. All inspectors are well qualified and possess specialized knowledge in their respective working area. BEPZA regularly organizes training programs for the inspectors both independently and in collaboration with international bodies like ILO, World Bank etc.

To avoid any discrimination, the Authority conducts neutral investigation and personal hearing of the concerned worker/WWA member for 'Resignation, Termination, and Suspension, Dismissal and Transfer' or other forms of exclusion.

(a) Measures to remedy acts of anti-union discrimination:

The following provisions have been included in the Bangladesh EPZ Labour Act, 2019 to protect against anti-union discrimination:

- Unfair Practices on the part of employers (Section 115);
- Special provision related to the protection of service of the representative of Workers' Welfare Association (Section 121); [It is mentionable that the section-120 of the act has been made more specific based on previous comments of ILO in this regard]
- Appointment of Conciliator, Arbitrator and Counselor cum Inspector (Section 125);
- EPZ Labour Court (Section 133);
- EPZ Labour Appellate Tribunal (Section 136);

- Terms and conditions of service to remain unchanged while proceeding is pending (Section 146);
- Representation of parties (Section 148);
- Penalty for unfair practices. (Section 151);
- Penalty for failing to implement settlement, award or decision, etc (Section 153);
- Penalty for contravention of provision of section 146 (157);
- Penalty for other offences (Section 159);
- Penalty for contravention of provisions of section 129 (Section 160);
- Offences committed by company (Section 161),
- Incorporation of inspection by DIFE (Section-168), etc.

Noteworthy, the above-mentioned sections commensurate with the provisions in BLA related in this regard.

As per Bangladesh EPZ Labour Act, 2019, any aggrieved worker has full freedom to go EPZ Labour Court and EPZ Labour Appellate Tribunal.

However, BEPZA is looking forward for kind cooperation and valuable suggestions, advice and technical assistance from ILO for further improvement of the training programs as well as to uplift the workers' rights in the EPZs of Bangladesh.

5. THE EXCESSIVE USE OF FORCE AND CRIMINALISATION OF TRADE UNION ACTIVITY: THE 2019 AND 2016 ASHULIA CRACKDOWNS

Our government does not condone any assault on the physical or moral integrity of workers. Our law enforcement personnel are trained in crowd control measures and they refrain themselves from committing any excesses or aberrations unless for self-defence or for protection of civilian lives and property. Any alleged excess by law enforcement personnel are duly investigated through established legal and administrative procedures, resulting in systematic follow-up. In case of any grave allegations, there have been instances of multiple inquiries by relevant bodies and authorities. The Government is of the view that there is no particular reason for reinventing the wheel as far as the prevailing legal and administrative processes are concerned and found to be working well.

2016 Ashulia case: The Ashulia issue was included in the case 3263. After the Ashulia incident some workers were in police custody but were released immediately. Although 10 cases were filed against the workers, no unionist/worker was imprisoned. Following the unanimous decisions of a tripartite meeting held on 23rd February, 2017 chaired by the Hon'ble State Minister for Labour, after primary investigation, all cases were concluded without framing any charge against any worker in any of the cases. The workers who left their jobs were paid all dues and salary as per Bangladesh Labour Act.

May 2017 incidents in Chittagong: The ITUC in its communication in 2017 commented on incidents of violence, intimidation and falls criminal charges against 70 union leaders and their families in May 2017 in Chittagong (Savar Sweater Ltd. and Orchid Sweater Ltd of Azim Group). In that concern a meeting was held on 14 January 2018 at BGMEA with BIGWF representative, Management and BGMEA officials. In that meeting it was agreed that all the workers related to that incident would get all the wages and legal benefits and two cases, one is lodged by the worker (case no 09 on 4 November 2016) and the other lodged by the Management (case no 34 on 29 May 2017) would be withdrawn. The concerned workers were paid their wages and legal benefits. According to the report from Industrial Police Chittagong, a criminal case (case no 09) was filed against 61 union workers and leaders. Both of the cases have been dismissed by the Court on September 16, 2019.

2018 minimum wage case: On 09 December 2018 some workers of Ashulia, Dhaka came out of their factories protesting the new wage structure declared by Wage Board of the Country. On the next day workers of different factories of Ashulia and Savar areas of Dhaka came out of their factories to protest the alleged inadequate increase of the salary and to demand higher wages. They continued their protest till 12 January, 2019. On 08 January, 2019 around 5,000 workers from Savar of Dhaka staged demonstration on the road in front of the factories. Workers from other Garments factories also took position at different points of Dhaka-Savar highway. They blocked the road halting traffic movement. Police at first tried to convince them through negotiation and requested them to leave the road. But instead of withdrawing road blocked workers became violent and aggressive. They started to through stone and bricks chips targeting Police. Police tried to make them quiet but workers became more violent and vandalized the private transports on the road and different factories. On that accident 15 (fifteen) Police personnel were injured and were sent to different hospitals. Finally the additional forces came and dispersed the violent workers and the situation came under control.

On 09 January, 2019 around 10,000 workers from several garments factories of Ulail and Bagh Bari area of Savar, Dhaka took position on the Dhaka-Savar highway. They blocked the road halting traffic movement and vandalized private vehicles on the road. To avoid unwanted situation Police tried to convince the violent workers through negotiation and requested them to leave the road so that transport can move easily. But the agitated workers threw bricks and stones at the Police. 04 (Four) on-duty Police personnel were injured on that day. The situation made the Police to use water cannon to disperse the unruly workers.

On 10 January, 2019 around 50,000 workers from several factories of Ashulia and Savar area of Dhaka took position at different places of Ashulia-Baypail highway. They blocked the highway, threw brick chips at the factories located near the road and vandalized vehicles on the road. Police requested the workers to leave the road. But workers continued to throw brick chips targeting the Police. Industrial Police always use minimum force in every incident to disperse agitated workers.

Representatives from industrial police, local administration and DIFE inspectors jointly visited all disturbed factories and tried to convince the workers so that they were not influenced by any rumour or propaganda.

In this case police did not use any excessive force. It is to be mentioned that any allegation of excessive use of force by law enforcement personnel are duly investigated through established legal and administrative procedures. The investigation may be carried out by the Bangladesh Police and the Ministry of Home Affairs, resulting in systematic follow-up.

It is claimed by the social partners that in connection to the 2018 minimum wage incident, 34 cases were filed with the police stations by the employers. The summary of cases is given below:

- 19 cases withdrawn;
- 10 cases running;
- 02 cases are not related to wage;
- 01 case against outsider/non worker;
- 01 case is not filed and;
- 01 case settled through final report by police since no witness was found

All the cases filed by the factory managements were on the ground of vandalizing vehicles and destroying properties. About 77 workers were arrested and later on all were released on bail.

Additional 03 cases were filed by Dhaka Metropolitan police against around unnamed 300 workers. The cases were filed on the ground of vandalizing vehicles, blocking roads and destroying properties. Seven workers were arrested for torching a public bus.

The cases mentioned above were filed by the police. Any case by the police, according to the existing practice, primary verification is done by the police after filing any case by them. If sufficient ground is found, the charge is framed against the perpetrator or the case could also be dismissed through final police report. Till now no charge is framed against anybody in any of the cases mentioned above. No worker is in the jail.

Case of Sumon Mia (2018/19 Wage unrest):

During the labour unrest on 08 January 2019, police did not use any lethal weapons but later police came to know that one of workers was severely injured and police sent him to local hospital for treatment where he later died. The postmortem report produced by medical officer (Department of Forensic) Sohorawardy Medical College Hospital, Dhaka showed that the reason for the death was due to heamorrhage and shock as a result of wound which was ante mortem in nature. The case is under investigation. It is noted that during the incident, several executive magistrates were present with police to monitor the use of weapons.

Preventive Measures: The Government is committed to take necessary measures to prevent such incidents. In a meeting held on 10 April, 2018 with the Industrial Police, Bangladesh, presided over by the Hon'ble State Minister for Labour and Employment, necessary instructions were given to the concerned Police officials. Awareness raising of the Police and police officials

is also important to avoid harassment of any persons which is being duly done. The Industrial Police issued an instruction on 02/07/2019 not to harm anyone without any apparent reason for the amelioration of the labour unrest. It is mentioned that during 2017 to 2019 a total of 288 training/workshop/seminar were arranged for Industrial Police where 5052 police personnel were trained. They were trained on Human Rights, Labour Law, Fundamental Rights, Constitutional Rights and Civil Liberties, Crowd Control Measures and to refrain themselves from committing any excesses or aberrations unless for self-defense or protection of the civilian property during their basic and in-service training courses.

Ensuring peaceful and congenial working environment in RMG sector in order to maintain normal operation and productivity, 29 committees have been formed for eight labour intensive districts comprising officials from Department of Labour (DoL) and Department of Inspection for Factories and Establishment (DIFE) one from each. The committee will;

- Monitor the implementation status of the recently declared wages;
- Publicize extensively about the labor helpline that has been introduced by DIFE;
- Take necessary steps to fix labor helpline number at conspicuous places in each and every factory;
- Dispose of issues relating to termination or dismissal of employees lawfully;
- Resolve untoward situations in consultation with the employers, and workers representatives;
- Assign a focal point to each and every factory;
- Report to the Ministry on prevailing labour situation regularly;

It may be mentioned that a proposal for further upgradation of DIFE with additional 1458 inspectors has been initiated in which required number of senior positions have been proposed. The process of establishing an 'Industrial Safety Unit' under DIFE comprising of 184 inspectors has been initiated.

6. COLLECTIVE BARGAINING IS NOT PROMOTED:

There are provisions in the BLA, 2006 to facilitate collective bargaining in industrial sectors in Bangladesh. To promote collective bargaining, the provision [Section 202(22)] for automatic cancelation of a union if it would get less than 10% of the casting vote in the CBA election has been deleted through amendment of the BLA, 2006 in 2018. This encourages unions to participate in CBA elections since there will be no fear of canceling of the union registration and is now encouraging development of new leadership. The requirement of support to call for a strike has been reduced from **67% to 51%**. During 2017 to 2019, there were nine collective agreements at national level and seven collective agreements were held at sectoral level. Out of nine national level collective agreements, support of experts facilitated in five cases.

All the elections till date were held through secret ballots according to the Act with spontaneous participation of the workers. Officials of different departments and organizations like USTR, US DOL, US State Department, H.E. the Ambassador of USA in Bangladesh and other officials of US

Embassy, High officials of AFL-CIO and Solidarity Centre visited different EPZs of Bangladesh and observed the implementation of EWAIIRA. They also witnessed some referendums and WWA elections in EPZs and expressed their satisfaction for free, fair and credible elections. Some documents of the free, fair and credible elections of WWAs held in the EPZs are attached herewith as facts. As per Law, representatives of the workers, employers and from neutral sources can monitor election held under the Act.

Formation of Workers Welfare Association (WWA) in EPZs factories is an ongoing process. As of July 2019 WWAs have been formed and registered in 74% of the enterprises in EPZs. WWA registered under the Act at an industrial unit is the Collective Bargaining Agent (CBA) for that industrial unit. WWA/CBA(s) have the right to negotiate directly with the employer on wages, working hours and other terms and conditions of employment. To date all elected & registered 237 WWAs/CBAs are actively performing their activities with full freedom. During last 5 years WWAs (CBAs) within the EPZs had submitted 521 Charter of demands and all of which had been negotiated successfully and collective bargaining agreements/ Memorandum of Understanding (MoU) were signed. A copy of collective bargaining agreement is attached herewith (Annexure-2).

BEPZA is looking forward for kind cooperation and valuable suggestions, advice and technical assistance from ILO for further improvement of the training programs as well as for upliftment of the workers' rights in the EPZs of Bangladesh.

6.1 Regarding Labour Unrest in Dhaka EPZ.

During 02-09 April, 2019 labour unrest occurred on different dates at 03 factories in Dhaka EPZ. It is learned that some workers of those factories intentionally created such situation to accomplish their own personal interest. They instigated other workers most of whom took part in the incidents without full knowledge whimsically.

BEPZA had taken all necessary measures to resolve the issue for ensuring workers' rights and work place safety in the zone. To mediate the untoward situation, the workers and management of the companies were counseled as per laws and regulations, subsequently the worker joined the work.

Conclusion

The responses mentioned above are based on facts and the Government of Bangladesh welcomes all sorts of engagements and assistances from all relevant stakeholders to further improve the situation of the labour sector as per its best ability and capacity. Unfounded complains will only distract the focus from workers' welfare and would disrupt the current process of development. The Government counts on everyone including the workers, employers, rights activists, NGOs, international organizations and other Member States of ILO to lend their responsible support and understanding so that the Government may continue to further improve the overall situation of the labour sector.