

Legal Framework for Trade Unionism in Bangladesh

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Abstract: Proper employment relation is a condition precedent to create conducive environment for developing smooth industrial economy. However, maintenance of congenial relation between employers and workers is always very challenging because it is inherently in the nature of conflict of interest. Moreover, the challenge is becoming more acute in modern complex industrial economy where direct relation between employers and workers is not feasible owing to involvement of vast number of workers in an industry. Thus, trade unionism emerged to address the issue and the legal framework for regulating trade unionism developed by the state as a neutral actor between employers and workers. However, in many cases the state, because of tremendous influence on the part of employers, cannot play neutral role between the employers and workers and consequently control free trade unionism activities rather facilitating it. In this paper, legal framework of trade unionism in Bangladesh has been examined highlighting the historical background and some recommendations have been made on the basis of findings of study with a view to making the trade union activities as a means to maintain sustainable employment relation for the benefit of workers and employers for smooth economic development.

Key Words: Trade union, trade dispute, federation of trade unions, fundamental rights, freedom of association, employer, worker, director of labour.

I. Introduction

Freedom of association is one of the key human rights recognized under International Law and an important fundamental right guaranteed by almost all civilized states of the world including the People's Republic of Bangladesh under her Constitution, the supreme law of the nation. Formation of Trade Unions is an effective means to exercise the freedom of association for the protection of workers' rights. In Bangladesh, there are 338 trade unions and 85,883 members of those trade unions.¹ However, it is alleged that the legal framework for the trade union in Bangladesh is not conducive for carrying out trade union activities and is not in conformity with international standard. Development partners and relevant international organizations are continuously insisting upon Bangladesh to amend legal framework of trade unionism in the light of international standard.

Historical Background:

The origin of the trade union movement in India sub-continent may be traced back to the earliest times when guilds and panchayats in every village settled their disputes between their members and their masters. Such panchayats were to be found in India as early as 700 B.S.² However, these panchayats cannot be termed trade unions in modern sense. In fact, modern trade union is a result of factory industry not of cottage industry. Modern factory industry in India started during the second half of the nineteenth century and after the First World War it was established on a firm basis.³

A successful trade union movement presupposes the existence of an industrial and urban proletariat entirely dependent upon the factory system for employment and livelihood.⁴ But such a proletariat did not exist in India before the war. Throughout the war there were many restrictions on the import of foreign goods, but there was enormous demand from the Allies and Neutral powers for India's own products. These two factors resulted in a shortage of the more essential commodities like salt, cloth and kerosene which caused hardship to the working population. To mitigate the sufferings of the workers, some 'genuine' trade union sprang up during the last year of the war. One such organization was the Madras Labour Union—"the first trade union on the modern type in India" was founded on the 27th April, 1918 in the Binni Karnatic Mills, Madras.⁵ Thereafter, a

¹ Annual Report of the Ministry of Labour and Employment, 2012-13, p. 21

² Punekar, S.D., Trade Unionism in India, Bombay, New Book, 1948, pp. 45-52

³ Jathar, G.B. and Beri, K.G., Indian Economics, Vol. 1 (9th edition), pp. 155, 401-03

⁴ D'Costa, Ronald, The Role of Trade Union in Developing Countries, Belgium, (Nivellies) Havsux University Catholique De Louvain, 1953 Series 172, p. 85

⁵ Mathur, A.B. Mathur, J.S., Trade Union Movement in India, Allahabad, Chaitanya, 1957, p. 16

good number of trade unions was appeared but could not survive for a long time due to lack of immunity of trade union activities from civil and criminal liabilities.⁶ Trade union activities were regarded as breach of contract and illegal conspiracy in restraint of trade until 1926. Facing such a grave situation the trade union leaders and politicians started pressing the Government for trade union legislation which would protect trade unionists against civil and criminal liability for acts genuinely done in furtherance of a trade dispute. In the face of long struggle, the colonial ruler compelled to introduce Indian Trade Union Bill in 1921. The Government, however, took five years for consideration and eventually the Indian Trade Union Act (Act XVI of 1926) was passed in February, 1926. The Act took another fourteen months to be implemented i.e. came into force from the 1st of May 1927.⁷ The Act provided for, *inter alia*, registration of trade union, and granted immunity to registered unions from civil and criminal liability.

Later the Indian Trade Dispute Act, 1929 was enacted to provide for adhoc Conciliation Board and Court of Inquiry for the settlement of trade disputes. The Act explicitly prohibited strikes and lock-outs in public utility services and general strikes affecting community as a whole and impliedly recognised the right to strike and lock-out.

In the era of Pakistan, the East Pakistan Trade Unions Act, 1965 was enacted repealing the Trade Unions Act, 1926, which was more restrictive on the freedom of association and right to organize.

Afterward the Industrial Disputes Act, 1965 and Trade Unions Act, 1965 were replaced with the enactment of the Industrial Relations Ordinance, 1969, which made provisions for recognition of collective bargaining agents for establishment or group of establishments.

After independence in 1971, the Labour Policy, 1972 was adopted and recommended reduction of trade union activities in welfare organizations.⁸ The right to strike and collective bargaining in the nationalized industries was prohibited for six months by Presidential Order No. 55 in May 1972. In 1973, the right to strike and lockout, as granted by Industrial Relations Ordinance (IRO), 1969 was withdrawn. Meanwhile the “Emergency Power Ordinance, 1974” was promulgated and the rules formulated under the Ordinance completely suspended the democratic rights of workers by prohibiting trade union activities such as strikes, lock-outs, collective bargaining.⁹

The rights of collective bargaining and striking were restricted through promulgation of the Industrial Relations (Regulation) Ordinance, 1975. Subsequently, the restriction imposed on rights of freedom of association was gradually withdrawn by virtue of the provision of the Industrial Relations (Amendment) Ordinance, 1977 and the Labour Policy of 1980. However, again restriction was imposed on the right to freedom of association by proclaiming the Industrial Relations (Regulation) Ordinance 1982. Trade union activities were restored in 1991.

The Bangladesh Export Processing Zones Act, 1980 as amended in 1984 provides for power to exempt such zones from operation of certain laws.¹⁰ In 1986, the Government of Bangladesh suspended the operation of the then two labour laws i.e. the Employment of Labour (Standing Order) Act, 1965 and Industrial Relations Ordinance, 1969 in the EPZs. Consequently, trade unionism was not allowed to be formed in EPZs until 2004. In 2004, the EPZ Workers Association and Industrial Relations Act, 2004 was enacted with a view to recognizing the right of the workers to form association, regulation of relations and settlement of differences or dispute arising between employers and workers to the Export Processing Zones and for matters connected therewith and ancillary thereto.¹¹

Finally, the legal framework of trade unionism got formal shape with the enactment of the Bangladesh Labour Act, 2006. Unfortunately, the trade union activities again interrupted after proclamation of Emergency on 11 January 2007 and continued for 23 months. The EPZ Workers Association and Industrial Relations Act, 2010 was passed upon repealing the EPZ Workers Association and Industrial Relations Act, 2004 and restricted trade union activities in the form of workers welfare association was allowed in the EPZ areas.¹² In 2013, the Bangladesh Labour (Amendment) Act, 2013 was passed to provide the provisions, *inter alia*, simplification of trade union registration procedure and women representation in the executive committee of a trade union.¹³

Constitutional Framework of Trade Unionism:

⁶ In 1920 there were about 125 unions with a total membership of 2,50,000. Punekar, S.D., Trade Unionism in India, p. 78

⁷ Mukhtar, Ahmed, Trade Unionism and Labour Dispute in India, Bombay, Longman, 1935, p. 92

⁸ Labour Policy, 1972, Ministry of Law and Social Welfare, Government of Bangladesh.

⁹ Md. Abu Taher, ‘Legal Environment for Industrial Relations in Bangladesh: A Critical Evaluation’, the Chittagong University Journal of Law, Vol. 2, 1997, pp. 124-133.

¹⁰ Section 11A, The Export Processing Zones Act, 1980 as amended in 1984

¹¹ Preamble to the EPZ Workers Association and Industrial Relations Act, 2004

¹² Legislative and Parliamentary Affairs Division, Government of the Peoples Republic of Bangladesh, http://bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=1054 accessed on 15-03-2014

¹³ Bangladesh Gazette, **Additional Issue, July 22, 2013**

The preamble of the Constitution of Bangladesh, 1972 provides that the fundamental aim of the State shall be to realize, through the democratic process a socialist society, free from exploitation- a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens.¹⁴ The Constitution categorically provides as one of the fundamental right that all forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.¹⁵ It also guarantees freedom of association as a fundamental right¹⁶

Statutory Framework of Trade Unionism:

The key statutory framework for trade unionism is the Bangladesh Labour Act 2006. The Bangladesh Labour Act, 2006 applies to the whole of Bangladesh.¹⁷ However, a number of categories of workers are excluded from the scope of application of the Bangladesh Labour Act, 2006 including its provisions on freedom of association and the right to organize.¹⁸ These are offices of or under the Government (except workers in the Railway Department; Posts, Telegraph and Telephone Departments; Roads and Highways Department; Public Works Department; Public Health Engineering Department and the Bangladesh Government Press); security printing press; ordnance factories; establishments for the treatment or care of the sick, infirm, aged, destitute, mentally disabled, orphans, abandoned children, widow or deserted women, which are not run for profit or gains; shops or stalls in public exhibitions or show which deal in retail trade; shops or stalls in any public fair for religious or charitable purposes; educational, training and research institutions not maintained for profits or gains; hostels, messes, hospitals, clinics and diagnostic centers not maintained for profits or gains; agricultural farms with less than five workers are normally employed; domestic servants; and establishments run by the owner with the aid of members of his family. Moreover, administrative, supervisory officers or managerial employees are excluded within the definition of workers and thereby they are not included within trade unionism.¹⁹

Only one trade union is allowed to be formed by the workers engaged in any specialized and skilled trade, occupation or service in the field of civil aviation establishment in Bangladesh for the purpose of getting affiliation with any recognised international organization.²⁰ Single trade union is also allowed to be formed by the Bangladeshi seamen normally serving in oceangoing ships and workers employed in the Chittagong Port Authority and the Mongla Port Authority.²¹

The EPZ Workers Association and Industrial Relations Act, 2010 applies to the workers in the Export Processing Zones established under the Bangladesh Export Processing Zones Authority Act, 1980, but excludes (i) worker employed as a member of the watch and ward or security staff or as a confidential assistant, cipher assistant or as casual workers or workers employed by kitchen or food preparation contractors; (ii) workers employed in managerial or administrative capacity and those employed in supervisory capacity.²²

Formation of Trade Unions:

Trade union may be formed either by workers or employers by registering under chapter XIII of the Bangladesh Labour Act, 2006.²³ Federation of trade unions is also allowed to be formed and registered under the Act.²⁴ The federation is authorised to affiliate with any international organization and confederation of worker's or employer's organization.²⁵

Worker's trade union is to be formed for regulating the relations between workers and employers or workers and workers and employer's trade union is to be formed for regulating the relations between employers and workers or employers and employers.²⁶

Registration is mandatory for formation of trade union²⁷ and taking part in or instigating or inciting others to taking part in the activities of an unregistered trade union or of a trade union whose registration has been cancelled or collects subscription except enrollment fee, for the fund of any such trade union, shall be

¹⁴ Para 3 of the Preamble to the Constitution of the Peoples Republic of Bangladesh

¹⁵ Article 34, the Constitution of the Peoples Republic of Bangladesh

¹⁶ Article 38, Ibid

¹⁷ Section 1(3), the Bangladesh Labour Act 2006

¹⁸ Section 1(4), Ibid

¹⁹ Section 2(65), Ibid

²⁰ Section 184, Ibid

²¹ Sections 185 and 185A (inserted by section 2 of the Bangladesh Labour (Amendment) Act, 2009)

²² Section 2(22) of the EPZ Workers Association and Industrial Relations Act 2004

²³ Section 2(xv), Ibid 'trade union' means trade union of workers or employers formed and registered under chapter XIII of this Act and shall include a federation of trade unions.

²⁴ Section 2(xvi), Ibid 'federation of trade unions' means a federation of trade unions registered under chapter XIII.

²⁵ Section 176(c), Ibid

²⁶ Section 176(a) and 176(b), Ibid

²⁷ Section 192, Ibid

punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand taka or with both.²⁸

For registration of a trade union, the constitution of a trade union is to be adopted with the following matters, namely: (a) the name and address of the trade union; (b) the objects for which the trade union has been formed; (c) the manner in which a worker may become a member of the trade union specifying therein that no worker shall be enrolled as its member unless he applies in the form set out in the constitution declaring that he is not a member of any other trade union; (d) the sources of the fund of the trade union and statement of the purposes for which such fund shall be applicable; (e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the trade union and under which any fine or forfeiture may be imposed on him; (f) the maintenance of a list of the member of the trade union and of adequate facilities for the inspection thereof by the officers and members of the trade union; (g) the manner in which the constitution shall be amended, varied or rescinded; (h) the safe custody of the funds of trade union, its annual, audit, the manner of audit and adequate facilities for inspection of the books of account by the officers and members of trade union; (i) the manner in which the trade union may be dissolved; (j) the manner of election of officers by the general body of the trade union and the term, not less than two years and not exceeding three years, for which an officer may hold office; (k) the number of members of the executive which shall not be less than five and more than thirty-five as may be prescribed by rules; (l) the procedure for expressing want of confidence in any officer of the trade union; and (m) the meetings of the executive and of the general body of the trade union, so that the executive shall meet at least once in every three months and the general body at least once every year.²⁹

A trade union of workers shall not be entitled to registration unless it has a minimum membership of thirty percent of the total number of workers employed in the establishment in which it is formed.³⁰ Moreover, when a trade union is formed in an establishment, if there is 20 percent of the total workforce is female, at least 10% of female members shall be included in the executive committee to the union.³¹

An application for registration of a trade union is to be made under the signature of its president and secretary to the director of Labour or to the officer authorized in this behalf. The application shall be accompanied by (a) a statement showing (i) the name of the trade union and the address of its head office; (ii) date of formation of the union; (iii) the names, names of father and mother, ages, addresses, occupations and the posts in the union of the officers of the trade union; (iv) statement of total paid membership; (v) the name of the establishment to which the trade union relates and the total number of member unions; (vi) in case of a federation of trade unions, the name, addresses and registration numbers of member-unions; (b) three copies of the constitution of the trade union together with a copy of the resolution by the members of the trade union adopting such constitution bearing the signature of the Chairman of the meeting; (c) a copy of the resolution by the members of the trade union authorising its president and secretary to apply for its registration; and (d) in case of a federation of trade unions a copy of the resolution from each of the constituent unions agreeing to become a member of the federation.³²

The Director of Labour or the officer authorized in this behalf being the Registrar of Trade Unions³³ shall, on receipt of an application for registration of trade union, publish a public notice showing the names of the officers of the union at the expenses of the applicant.³⁴

The Director of Labour, on being satisfied that a trade union has complied with all the requirements of this chapter, shall register the trade union in a prescribed register and issue a registration certificate in the prescribed form within a period of sixty days from the date of receipt of the application for registration.³⁵

The Director of Labour, on registering a trade union, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this chapter.³⁶

Cancellation of Registration:

The registration of a trade union may be cancelled by the Director of Labour if the trade union has (a) applied for cancellation of registration; (b) ceased to exist; (c) obtained registration by fraud or by misrepresentation of facts; (d) contravened any of the basic provisions of its constitution; (e) committed any unfair labour practice; (f) a membership which has fallen short of the number of membership required under this chapter; and (g) contravened any of the provisions of this chapter or the rules.

²⁸ Section 299, Ibid

²⁹ Section 179(1), Ibid

³⁰ Section 179(2), Ibid

³¹ Section 176(e), Ibid, added by section 48 of the Bangladesh Labour (Amendment) Act, 2013

³² Sections 177 and 178(1), Ibid

³³ Section 177(2), Ibid, added by section 49 of the Bangladesh Labour (Amendment) Act, 2013

³⁴ Section 178(3), Ibid, substituted by section 50(b) of the Bangladesh Labour (Amendment) Act, 2013

³⁵ Section 182(1), Ibid

³⁶ Section 189, Ibid

Where the Director of Labour is satisfied on enquiry that the registration of a trade union should be cancelled, he shall submit an application to the Labour Court praying for permission to cancel such registration. The Director of Labour shall cancel the registration of a trade union within thirty days from the date of receipt of permission from the Labour court. The registration of a trade union shall not be cancelled on the ground of committing unfair labour practice if the unfair labour practice is not committed within three months prior to the date of submission of the application to the Labour Court.³⁷

Protection and immunities of Trade Unionism:

Every registered trade union shall be a body corporate by the name under which it is registered, shall have perpetual succession and common seal and the power to contract and to acquire, hold and dispose of property, both movable and immovable, and immovable, and shall by the said name sue or be sued.³⁸

No employer or trade union of employers and no person acting on their behalf shall (a) impose any condition in a contract of employment seeking to restrain the right of a person who is a party to such contract to join a trade union or continue his membership of a trade union; or (b) refuse to employ or refuse to continue to employ any person on the ground that such person is, or is not, a member or officer of a trade union; or (c) discriminate against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member

or officer of a trade union; or (d) dismiss, discharge, remove from employment or threaten to dismiss, discharge or remove from employment a worker or injure or threaten to injure him in respect of his employment by reason that the worker is or proposes to become, or seeks to persuade any other person to become a member or officer of a trade union, or participates in the promotion; (e) induce any person to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such person or any other person; (f) compel or attempt to compel any officer of the collective bargaining agent to sign a memorandum of settlement or arrive at a settlement, by using intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities and such other methods; (g) interfere with, or in any way influence the election provided for in section 202; (h) recruit any new worker during the period of strike under section 211 or during the currency of a strike which is not illegal, except where the conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, permitted temporary employment or a limited number of workers, in the section where the damage is likely to occur; (i) deliberately fails to take measures recommended by the participation committee; (j) fails to give reply to any communications made by the collective bargaining agent in respect of any industrial dispute; (k) transfer the president, general secretary, organizing secretary or treasurer of any registered trade union in contravention of section 187; and (l) commence, continue, instigate or incite others to take part in an illegal lockout.³⁹

An aggrieved worker is not entitled to seek any redress under section 33 against an order of termination of employment of a worker under section 26, unless such order is alleged to have been made for his trade union activities or passed motivated or unless the worker concerned has been deprived of the benefits specified in that section.⁴⁰

For the purpose of ensuring protection of trade unionism, ‘worker’ includes a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay off or removal has led to that dispute, but does not include a person employed as a member of the watch and ward or security staff or fire-fighting staff or confidential assistant or telex operator or fax operator or cypher assistant or any establishment.⁴¹

No officer or member of a registered trade union or a collective bargaining agent as determined by the Director of Labor shall be liable to punishment under section 120B(2) of the Penal Code, 1860 (XLV of 1860) in respect of any agreement made between the members thereof for the purpose of furthering any such object of the trade union as is specified in its constitution referred to in section 179, unless the agreement is an agreement to the commit an offence, or otherwise violate any law other than this Chapter.⁴² However, a person shall not be entitled to be, or to be elected as a member or an officer of a trade union if (a) he has been convicted of an offence involving moral turpitude or an offence under section 196(2) (d) or section 298 and unless two years have elapsed from the date of his release;

³⁷ Section 175, Ibid

³⁸ Section 194(1), Ibid

³⁹ Section 195, Ibid

⁴⁰ Section 33(9), Ibid

⁴¹ Section 175, Ibid

⁴² Section 197, Ibid

(b) he is not employed or engaged in that establishment in which the trade union is formed.⁴³

No suit or other legal proceedings shall be maintainable in any trade union or collective bargaining agent or any officer or member thereof in respect of any action done in contemplation or furtherance of an industrial dispute to which the trade union is a party on the ground that (a) such act induces some other person to break a contact of employment, or (b) such act or deed is an interference with the trade, business or employment of some other person or (c) such act interferes with the right of some other person to dispute of his capital or his labour as he wills.

A trade union shall not be liable in any suit or other legal proceedings in any civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the trade union if its proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the trade union.⁴⁴

Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a trade union shall not be void, or violable by reason only that of the objects of the agreement are in restraint of trade. Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the express purpose of enforcing, or recovering damages for the breach of any agreement concerning the conditions on which any member of a trade union shall or shall not sell their goods, transact business, or work, employ or be employed.⁴⁵

Structure of Trade Unions:

Trade unions in Bangladesh may be divided into two categories: basic trade union and trade union federation. Basic trade union is a primary organization of workers at the working place. Usually, the trade unions at plant level are termed basic unions. Trade union federation is the body of unions from the same industrial sector. Section 200 of the Act provides that any two or more registered trade unions formed in establishment which are engaged in or carrying on the same industry may constitute federation by executing an instrument of federation and the apply for the registration of the federation provided that not less than 20 trade unions formed in different types of industries may jointly constitute a federation on national basis.

Again, federation of trade unions can be two types: industrial federation and national federation. Industrial federation can be composed of a number of basic trade unions related to the same type of industry, such as jute workers federation, textile workers federation, and garments workers federations. Usually an industrial federation formulates the charter of demands, submits workers' demand to the management in charge of an industry, negotiates with the authorities over the problems stated in the charter of demands, and takes necessary steps following the success or failure of such negotiations. Apart from these activities, it also sets up working policies for the enterprise unions of its own, issues guidelines, and helps plan leaders in organizing and controlling union activities. National Federation is a federation of basic unions irrespective of job categories. A national federation generally extends organizing and advisory services to its affiliated enterprise unions federations. Political nexus is an important feature of all national federations. National level trade union federations had formed a grand alliance under the auspices of the SKOP (Sromik Kormochari Oikka Parishad), which represents the total workers of the country except the trade unions in the RMG sector. However, it is not registered as a federation and as such it does not have any legal status.

Compliance of International Standard:

Bangladesh has ratified seven out of eight core Conventions of ILO of which Conventions 87 and 98 are relevant to the right of 'Freedom of Association' and 'Freedom of Choosing Leadership.' Therefore, it is an obligation on the part of Bangladesh to make our national law compatible with ILO Conventions. In the case of **HM. Ershad Vs. Bangladesh**, it was held: "The national Courts should not... straightway ignore the international obligations which a country undertakes. If the domestic laws are not clear enough or there is nothing therein the national Courts should draw upon the principles incorporated in the international instruments."⁴⁶ In the case of **Bangladesh Legal Aid and Services Trust and Others Vs. Government of Bangladesh and Others**, it was observed that "the Courts of Bangladesh will not enforce those Covenants as treaties and conventions, even if ratified by the State as they are not part of the corpus juris of the State unless those are incorporated in the municipal legislation. But the Court can look into these conventions and covenants as an aid to interpretation of the provisions of Part III of the Constitution particularly to determine the rights implicit in the rights like the right to life and the right to liberty, but not enumerated in the Constitution."⁴⁷ The Indian Supreme Court held that "In cases involving violation of human rights, the Courts must for ever remain

⁴³ Section 180, Ibid

⁴⁴ Section 198, Ibid

⁴⁵ Section 199, Ibid

⁴⁶ 2001 BLD (AD) 69

⁴⁷ 2010, 39 CLC (HCD)

alive to the international instruments and conventions and apply the same to a given case when there is no inconsistency between the international norms and the domestic law occupying the field."⁴⁸

Compliance status with ILO conventions transpires in the Report of the Committee of Experts on the Application of Conventions and Recommendations.⁴⁹ The Committee takes due note of the amendments made in July 2013 and the Government's indication that the amendment of any law is a continuous process. However, the Committee deeply regrets that the Government did not take this opportunity to address most of its previous requests for amendments: scope of the law (sections 2(49) and (65) and 175); restrictions on organizing in civil aviation and for seafarers (sections 184(1), (2) and (4) and 185(3)); restrictions on organizing in groups of establishments (section 183(1)); restrictions on trade union membership (sections 2(65), 175, 185(2), 193 and 300)); interference in trade union activity (sections 196(2)(a) and (b), 190(e) and (g), 192, 229(c), 291 and 299); interference in trade union elections (sections 196(2)(d) and 317(d)); interference in the right to draw up their constitutions freely (section 179(1)); excessive restrictions on the right to strike (sections 211(1), (3), (4) and (8) and 227(c)), accompanied by severe penalties (sections 196(2)(e), 291 and 294–296); excessive preferential rights for collective bargaining agents (sections 202(24)(c) and (e) and 204); cancellation of trade union registration (section 202(22)) and excessive penalties (section 301). The Committee also hopes that the necessary measures will be taken in the very near future to guarantee the rights under the Convention to workers in export processing zones.

II. Conclusion and Recommendations

It is claimed that more widespread trade unionization will bring many benefits to the workers. The unions will give workers an effective voice against unsafe working conditions, unacceptably low wages and exploitation by unscrupulous employers. The social compliance mechanism proved ineffective because it was driven by external actors; the trade union mechanism is more effective because it is internal- the workers will be given effective tools to demand and obtain benefits for themselves. Thus, unions can act as a countervailing force against employer oppression.

However, it is also argued that unions are rarely conducive to improve productivity and economic growth. Many economists feel that powerful unions were instrumental and destroying the profitability and economic viability of these industries in the US, leading to declining investment, growth and the eventual migration of these industries to other countries.⁵⁰ In the name of trade unions, union leaders are virtually running a parallel administration, controlling postings, promotions and transfers of employees. There is a long tradition of ties between political parties and labor unions in South Asia. Disruptions in the workplace due to unions' political activities are hardly conducive to investment and growth.

Thus, the legal framework for trade unionism should be made in compliance with international standard keeping in mind of the lesson of the past and present experience for better protection of the national interest. Effective enforcement mechanism including adequate inspection, independent investigation, fair trial and execution of verdict is to be ensured by the state. Relevant stakeholders like the Bangladesh Garment Manufacturers and Exporters Association, international apparel brands and consumers have to play pro-active role by encouraging the establishment of independent trade unions to protect workers' rights by representing the grievance of the workers properly and to settle labour disputes through peaceful means.

48 *Apparel Export Promotion Council Vs. Chopra*, AIR 1999 SC 625

49 International Labour Conference, 103rd Session, 2014, Application of International Labour Standards 2014 (I), available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_235054.pdf accessed on 16-03-2014

⁵⁰ Aminul Islam, Should trade union activity in Bangladesh be increased?, *The Independent*, 03 June 2013