

Commitment or Conspiracy? A Historical Exploration of Freedom of Association in the Readymade Garment Industry of Bangladesh

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ABSTRACT

The historical texture of the trade union movement in Bangladesh is the struggle for survival and subordination. Now garment workers are enjoying the rights of eight-hour working days, weekly holiday leave, maternity leave, and so on, thanks to the struggle of the trade union movement. But the trade union movement in Bangladesh was historically weakened by its division into multiple federations, each aligned with a different political party as its labour front. This study will seek to understand the factors that restrict the freedom of association of garment workers in Bangladesh. The necessity of finding and analysing obstacles regarding the formation of unions in the garment industry and ensuring the environment to foster effective trade unionism in garments can be determined through the outcomes of this research. This article presents a brief historical overview of trade union movement conditions under different regimes, from British India to modern Bangladesh. It also incorporates a clarification of the workers' freedom of association barriers and the recent changes in perceptions in this regard. The objective of the study was to learn about the practise of trade union organising in the garment industry in Bangladesh. This study will be significant for establishing the right to associate for workers in our society. This article also contributes to the debate on how national legislation undermines workers' freedom of association.

Keywords: Freedom of Association, Trade Union Movement, Labour Legislation, Partisan Politics, Trade Unionism Culture, Readymade Garment Industry

INTRODUCTION

Every man needs freedom for the development of a complete human personality. A free society is one that acknowledges and facilitates the flourishing of each man's diversity of knowledge, values, goals, and personalities, which is determined by his own choices. Undoubtedly, there has been less interference with individuals' actions and greater possibilities for personal growth in societies that are freer. No one can potentially develop his powers in any direction without engaging in association. Furthermore, individuals who live in a society without enjoying a wide range of rights to association can possibly employ their powers to the fullest. As a necessary condition for any sort of legitimate demand, associational power is also requisite. The powers of the individual pervasively depend on association and how and to what extent he or she engages with it. People have a fundamental right to freedom of association, and the right to organise is one of the great ideas in human history. It is a central measure of a free society and a bulwark of democratic governance. Myriad interests and people involved strongly influence how a policy is determined by a wide range of factors (Stone, 1988). The existence of freedom of association depends on competing political and civil rights. Freedom of association means the ideal of legal and moral right to form and to join the right to unions of their choice (Oliver, 1999). But there are numerous hidden and visible impediments that limit the proper functioning of effective, strong, and non-partisan trade unions. First and foremost, the main reason behind this is the government's policy in encouraging the existence of freedom of association and their attempts to protect workers interests. Trade unions are crucial to advancing and preserving political and industrial democracy, as well as representing the interests of the working class as a whole. Now Bangladesh's industrial relations have significantly reformed from governmental paternalism to a more market-oriented system. The current institutional design sets the conditions for a competitive labour market,

but it is also struggling with increasing discontent and inequality, and trade unions are always facing considerable constraints in representing workers' interests. The bargaining power of plant-level trade unions has less access to engage with powerful management, and therefore the workers fear involving themselves with the wider trade union movements due to legal barriers to freedom of association. However, there is debate over the conditions under which unions can associate without fear or obligation, and the role of internal democracy within unions is particularly contentious in a great manner.

Objectives of the Research

The study aims to explore the historical origins of associational freedom from the early years of the readymade garment industry in Bangladesh until now. In this article, the right to freedom of association comports with the right to organise a union.

Research Question

There are numerous economic, political, cultural, and bureaucratic obstacles that impede effective trade unionism in the garment industry. This study tries to unveil the answer to the question: Are Bangladeshi trade unions able to enjoy the rights of freedom of association without fear, and what are the disruptive regulations that fuel exploitation in the readymade garment sector?

METHODOLOGY OF THE STUDY

This study was conducted using secondary data collected through national and international newspapers, journals, theses, books, newspaper columns, media reports, and annual reviews of international development organisations.

Bangladesh's Readymade Garment Industry: An Overview

The biggest export-generating industry and a major driver of Bangladesh's economy is the ready-made garment (RMG) sector. Early in the 1980s, the sector emerged primarily as an export-oriented industry, and it has since experienced a boom. A resurgence of national and international policy preferences is a cause for the expansion of an export-oriented RMG sector in Bangladesh (Morshed, 2007). The key driving forces behind the rise of the export-oriented apparel industry are quota advantage, favourable as well as liberal government business policies, and cheap labour costs. The RMG sector today contains thousands of factories, up from just fifty in 1980. There are currently 5115 factories operating in the nation, according to the Department of Inspection of Factory and Establishment (DIFE). The nine export processing zones (EPZs) also house 144 clothing companies. This industry's export volume increased from USD 31.57 million in FY 1983–84 to USD 21.53 billion in FY 2012–13, surpassed USD 28 billion in FY 2015–16, and is now surpassing USD 50 billion in exports in FY 2021 (Rahman, 2022). It is Bangladesh's largest formal sector, employing around 4.5 million people (60 percent of whom are women) and accounting for roughly 49 percent of all formal sector employment at present. As usual, the largest market share (30.8%) of apparel exports was occupied by China in 2020. Asian countries occupy about 55 percent of the global textile and apparel export market. The rapid growth of Bangladesh's RMG sector is due to the blessing of the (MFA) Multi Fibre Agreement between 1974 and 2005 (Siddiqi, 2016) and consistent low wages for surplus cheap labour, some of the lowest in the world, which triggered the holding of its competitive market place and always maintained a steady export rate. Despite Bangladesh's RMG sector's impressive progress in tackling the challenges of growth, this sector has always made headline news around the world after a series of workplace tragedies. In the recent past, due to the factory gate being locked, a large fire at the Tazreen Fashions factory in November 2012 killed 112 people. Again, with the collapse of the Rana Plaza building at Savar in Bangladesh on April 24, 2013, the deadliest disaster in garment industry history, more than eleven hundred garment workers lost their lives due to the factory manager's threat to enter the building

(Baumann, Labowitz and Stain, 2018). The working environment, especially in garment factories, is widely criticized for being poor, unacceptable, and slave-like conditions, which include below-minimum living wages and excessive hours and days worked per week, discrimination, verbal and physical abuse, suppression of trade unions, and preventable disasters that result in hundreds and thousands of deaths every year. Bangladesh is one of the few countries in the world where minimum wages are set entirely according to industry. Bangladesh had the lowest unit labour cost from the very beginning compared to other RMG-producing nations (Muhammed, 2011). Moreover, the government has consistently given enormous opportunity in its labour regulation to maximise the cheap labour supply in the ready-made garment industry from its inception (Mirza, 2013; Ullah, 2015). The minimum wage increase in Bangladesh's RMG sector has so far only been adjusted after illegal violent street protests and conflicts (Hussain, 2023).

Bangladesh's Labour Legislation Landscape and Trade union Rights

The constitution of Bangladesh gives precise guidelines to formulate any legislation in Bangladesh, and it provides its citizens with the right to freedom of association. In 2006, Bangladesh passed its first much-awaited dynamic labour act. It has been amended several times since its formulation, and the latest amendments were done in 2018. In the 2018 amendment to labour rights, tangible changes were made to guarantee financial benefits to new mothers and the right of any worker to freely join trade unions. Bangladesh's government also launched its labour rules on September 15, 2015. The government of Bangladesh declared its last labour policy in 2012, whereas the previous labour policy was announced in 1980. The key vision and objective of the labour policy are to ensure a productive, non-discriminatory, non-exploitative, and healthy work environment for all active citizens. But the promise of freedom of association has never been ensured and was seriously hampered in the trade union laws of Bangladesh during Pakistan's Martial Law period not only by the suspension of enforcement of certain fundamental rights but also through adverse legislative processes from time to time (Ahmed, 2004). Freedom of association is one of the fundamental rights with "reasonable restrictions" (Rahim and Islam, 2020). With the passage of the Bangladesh Labour Act in 2006, the legal foundation for trade unionism assumed official form (Islam & Asaduzzaman, 2015)

Trade union Registration Scenario in Bangladesh's Readymade Garment Industry

Despite making huge contributions to the economy, the industry is still characterised by extensive violations of workers' rights, particularly in regard to the right to association and union organising. The weakest link in Bangladesh's globally competitive RMG value chain is the mediocre state of enterprise-level union organising. It is clear that trade union activity has mostly been prohibited in the RMG sector since the beginning of the industry, and this trend persists to this day. Five federations were registered in the next two years after the first TU federation in the RMG sector came into existence in 1983. No additional federations were established in the following ten years (from 1986 to 1994). The RMG industries did not allow enterprise-level unions until 1997. Up until 1997, there were only three fundamental trade unions in the RMG industry. In 2006, an opportunity for TU organising was opened with the adoption of the Bangladesh Labour Act. Though it fails to comply with all international standards and does not have the institutional resources necessary to carry out the requirements of the law, the Act deals with the rights to freedom of association and collective bargaining. Bangladesh Labor Act 2006 has amalgamated the previous 25 labor related laws into a single one that was a milestone step in the labor relation system of Bangladesh. BLA confines a list of activities what is unfair labor practices from both the employer and workers side. As a result, by the end of 2012, 132 trade unions had been established in the RMG industry. Trade unions in this industry signed seven agreements with BGMEA from 1994 to 2006 that addressed worker rights such as minimum wages, recognition of union activities, issuance of appointment letters and ID cards to employees, setting working hours, and ensuring maternity leave and other holidays. A national tripartite agreement was signed between the government, BGMEA and the workers representatives in 2006. It was a significant step

towards resolving the workers' demands which were afterward incorporated in Bangladesh Labor Act 2006. Report of International Trade Union Confederation (ITUC) states that nearly half of applications to form a new union in the RMG sector were not registered in 2017 (ITUC, 2017) while according to publicly available government data the rejection rate stood at approximately one third. In the RMG sector, the number of trade unions increased from 1045 up to August 2021 to 1093 up to 31 January 2022 (DOL, 2022). The RMG sector has 54 industrial federations and 1093 basic trade unions until August 2022 (DOL, 2022). In ensuring their rights, there are many labour rights voluntary organizations, pro-government parties, left and right ideology based political party. Only two to ten percent of these factories have unions registered, and of those registered unions, one in ten is active, and one in five was created by the factory owners themselves (Moazzem, Ahmed, Islam, 2015). At present, 1093 enterprise based basic trade unions are registered in the garment sector.

The Struggle of Trade Unions in the Readymade Garment Industry in Bangladesh: Historical Perspectives

The trade union movement is around 200 years old and bears the pulse of the protection of working people. Trade unions have a rich history of struggle and protest against any kind of humiliation of workers worldwide. From a greater perspective, trade unionism is a natural and worldwide phenomenon. Workers have established trade unions to safeguard their interests almost anywhere and anytime they organise. Labour power has multiplied, resulting in the rise of the labour movement around the world as a result of conflicting interests between the buyer and seller of labour power. In this context, trade unions are the largest voluntary membership organisations, representing more than 251 million workers in the private and public sectors worldwide (ILO, 2023). Global trade union membership has become more diverse and multidimensional in recent years. Over the past ten years, global trade union membership has increased by percent (ILO, 2021). Trade unionism took shape in the late 1800s and early 19th century. But by 2018, just 11.9 percent of workers belonged to a union, according to ILOSTAT (ILOSTAT, 2021).

The history of labour unions in Bangladesh stretches back to the British colonial period, when leftist unions were involved in anti-colonial and nationalist struggles. As Rahman and Langford (2012) write, both before and after independence in 1971, unions sought patronage and support from political parties and did not have a strong presence. The trade union movement in British India had its foundation when the Bombay Mill Hands Association was formed on April 24, 1890. The workers got a great source of inspiration to organise themselves and shape their destiny with the establishment of the ILO in 1919. 1920 was a landmark year because the All India Trade Union Congress was formed for the purpose of conducting and coordinating the activities of the labour organisations. Pakistan's trade union movement experienced a leadership vacuum due to the partition of India and Pakistan, making it difficult to advance the interests of workers. The trade unions were divided and weak throughout the Pakistani era because the majority of union leaders had divergent ideologies. Due to this defeat, the leadership of the petty bourgeoisie took control of the trade union movement's activities (Ahmed, 1969). In addition, the trade union movement in Pakistan was marked by the dispersion of unions, protracted strikes, retaliatory lockouts, and picketing that occasionally descended into violence.

Bangladesh's trade union movement is the parallel development of nationalist and trade union movements that she inherited from British India, continued through the Pakistan period, and also paved the way for the creation of independent Bangladesh. The right to freedom of association covers both political and organisational aspects. This right becomes a requirement of the trade union movement because it allows workers to organise into associations and pursue political goals (Ahmed, 2004). The eight ILO core conventions have all been ratified by Bangladesh. As a result, Bangladesh has an obligation to fully align our national law with ILO conventions. The industrial relations between the employer and the worker have come under severe tension in the modern factory system. This is also undoubtedly not different in

Bangladesh, and so the trade-union movement can be analysed distinctly across the fourth phase. The first phase is the British colonial period. This period was characterised largely by the humanitarian ethos employed by friendly societies in dealing with labour. The second phase began with the year of independence for India and Pakistan. This period was notable for the unified and continuous labour movement, which marked the beginning of true modern trade unionism. And the third phase is after Bangladesh's independence. The phases of Bangladesh are characterised as follows: first phase (1971–1990): mixture of nationalisation and neoliberalism; second phase (1990–2005): state-controlled union; third phase (2006–2013): union growth, alignment, and realignment; and fourth phase (2013–2022): period of greater freedom and international alliance. Bangladesh has possessed a small number of industries since independence, and the Mujib regime adopted a nationalisation policy. But after a bloody coup, the father of the nation, Bangobandhu, and his family members were assassinated, and Bangladesh saw its first and second military regimes consecutively after independence in 1975–81 and 1981–1990. This military government adopted a neoliberal economic policy instead of Bangobandhu's nationalisation policy (Rahman & Langford, 2012). With the implementation of such trade liberalisation policies, Bangladesh saw a rise in the production of readymade garment for export (Ahmed, 2004). Taher (1999) thinks that political parties opened their labour fronts in every important industrial area to strengthen their respective power bases due to the promulgation of the Political Party Rules (PPR) and, as a consequence, a massive politicisation of the country's working class and the labour movement that saw the entire labour force broken into 'countless pieces'. The formation of SKOP was a historical step in 1984, when major labour unions in the country initiated a range of actions against the military Ershad regime. Many of Bangladesh's radical political unions were replaced by unions attached to the ruling party during the military regimes of Zia and Ershad, which were characterised by corruption, nepotism, and the development of a self-interested labour aristocracy (Ahmed, 1995). The autocratic Ershad regime was forced from power in 1990 by powerful student movements, and Bangladesh's second democratic journey started. From 1991 to 2006, the Awami League and the BNP ruled the country. It is interesting that although both the Awami League and BNP claim themselves to have democratic norms and practices; neither of the parties has made any remarkable contributions towards the welfare of the workers (Rahman & Longford, 2010). Trade unionism in Bangladesh greatly lacks a broader social acceptance level and a political-ideological fissure among itself, which makes it difficult to find common shared goals. This is a gradual continuation of the past, from the involvement of the anti-colonial resistance movement in 1969 and the fight for independence in 1971 (Fink, 2014). Following BLA 2006, the number of registered trade unions increased dramatically. By December 2013, 96 new unions had sought registration from the Directorate of Labour, compared to only two in the previous two years. Within just over a year, the garment sector had a total of 464 trade unions, up from 132 in 2012. This is because of the devastating Rana Plaza disaster (Siddiqi, 2016). Arguably, the Rana Plaza collapse tragedy was a catalyst that paved the way for a new era of industrial relations within the Bangladeshi garment industry. Many international organisations, such as Accord, Alliance, and the International Labour Organisation, have undertaken some remarkable activities within Bangladesh. Following the Rana Plaza tragedy, the Bangladesh RMG sector has adopted a multi-stakeholder governance strategy in the shape of the Accord and the Alliance, which can be considered the third wave of the Bangladesh RMG transition (Rahman & Rahman, 2020). The Accord, that includes four organisations as "Witness Signatories" (Clean Clothes Campaign, Workers Rights Consortium, International Labour Rights Forum, and Maquila Solidarity Network), is a legally binding agreement between global union federations, IndustriALL and UNI Global Union, Bangladeshi trade unions, and over 190 ready-made garment retailers and brands from 20 countries in Europe, North America, Asia, and Australia. They now provide support and continuously apply pressure upon the Bangladeshi government with a view to improving the working environment, with a particular focus on health and safety issues.

The history and development of trade unionism, particularly in RMG, are quite different from other industrial sectors. Trade union organising in the garment sector has never been allowed to grow easily since the development of this industry (Rahman & Langford, 2012). The first TU federation in the RMG sector

was registered in 1983 (Hossain, 2012), and five federations were registered in the following two years. Only three basic trade unions existed in the RMG sector until 1997. There has been an endless attempt to hold back the activities of trade unions in the name of creating a trade union-free EPZ to attract the global market, attract global investment, avoid unrest, etc. In these contexts, the state has played the main character role in the sense that it often implemented policies prescribed by the World Bank, IMF, and donors. The garment industry owners have been strongly against forming a trade union from the beginning (CPD, 2009). Following the 1990s, numerous NGOs began engaging in activities with a similar purpose to both NGOs and labour unions. These organisations are supported by foreign funding; they accept without question any donor directive and international labor-related campaign and take on the role of local implementers for these campaigns. As a result, the new NGO, donor, and buyer-driven model of the fight for garment workers' rights are gaining strength. Labour laws and trade unions in Bangladesh have been inherited from British and Pakistani-era legislation, politics, and the independence movement (Yunus & Yamagata, 2012). The trade union movement in independent Bangladesh is now over 50 years old. Its career has gone through several stages. Periods of resentment and bitter struggle have alternated with incentives for recognition, restructuring, and achievement. The historical texture of the trade union movement in Bangladesh is the struggle for survival and subordination. Now garment workers are enjoying the rights of eight-hour working days, weekly holiday leave, maternity leave, and so on, thanks to the struggle of the trade union movement (Ahamed, 2012). But the trade union movement in Bangladesh was historically weakened by its division into multiple federations, each aligned with a different political party as its labour front. These groups represent around 65 percent of the unionised employees in Bangladesh (Rahman, 2014). Regarding trade union membership in the readymade garment industry, only 2.25 percent of workers are estimated to be unionised, which is reportedly the lowest in Asia (Khan, Brymer, & Koch, 2020). According to Directorate of Labour (DOL) statistics, there are some 9,000 trade unions and 191 federations in the country (Haque, 2022), of which 1093 trade unions and 54 federations are now active in the garment industry. Around 10% of RMG factories now have trade unions, and only around 6.5% of RMG workers are organised into basic unions at the factory (Islam, 2018). After the Rana Plaza disaster, there has been a substantial surge in TU registration—by about 100% from 2013 to 2014. Many national and international organisations and trade partners are creating tremendous pressure in favour of allowing RMG workers the right to organise. The European Union (EU) also continuously pressed for reform in the labour governance process. The EU's review of the GSP facilities observed serious shortcomings in labour rights (Haque, 2020). Further to this, trade unions, civil society, and NGOs have conspicuously urged legal reforms and compelled the government to further amend the relevant laws, which made the union formation guidelines more lenient.

Trade Unionism Culture in Bangladesh's Garment Sector

The main goals of a trade union are to defend employee rights, ensure their safety on the job, bargain for a fair wage, or prevent employee exploitation. Like student politics after independence, worker's unions in Bangladesh have evolved into political tools employed by mainstream political parties. Trade unions are a tool used by political parties to manage the workforce. Even when the party's interests are not in the best interest of the workers, being a member of a political party makes a leader loyal to the party's interests. However, when trade unions further the political or private interests of their leaders, they hurt industries. Politically related labour unions face threats from groups associated with the ruling party, which makes it difficult for them to flourish. Workers can defend their rights, advance their interests, receive better wages and working conditions, and take an active part in the policies that affect their lives, and this is only possible through independent and democratic trade unions. The lack of honest, committed, and dedicated organisers, yellow trade unionism, the hostility of employers towards unions, the redundancy of fake unions, political influence, the ignorance, illiteracy, poverty, and unawareness of general workers, the threat of dismissal for unionists, and scarcity are the reasons for the failure of the organised trade union movement in Bangladesh. The trade union movement is now ineffective due to corrupt leadership. It is extremely rare for employers to be penalized for unfair or illegal labor practices, and frequently, the legal penalties are ineffective or

nonexistent. In 1984, Garment Sramik Federation, the first registered federation in the RMG sector, was the labour wing of the left-wing political party Jatiya Samaj Tanrik Dal (Hassan et al., 2022). There is an absence of real trade unionism in Bangladesh, particularly in garment industry. The whole labour movement will better understand its true role as a repressive capitalist instrument when workers feel it. This, in turn, will help to politicise the workers' struggles in defence of their class needs, rights, and organisations. The workers need union power in defence of their class interests, and class interests arise when they have strong class feelings. Lack of class consciousness is part of the culture of trade unionism in Bangladesh. Workers, in most cases, feel disinterested in forming trade unions or taking legal action against their employers. They prefer to change jobs if they have any grievances against an employer. So proper professionalism is absent in this sector. Therefore, this is yet another compelling argument against establishing a stronger trade union culture in the ready-made garment sector. With an estimated 4.5 million employees, the RMG industry has been at the forefront of industrial development in Bangladesh. According to the majority of estimates, between 70% and 80% of these labourers are women. Many labour activists say that trade union culture in the RMG sector is not on the right track due to its female-majority-based industry. The multiplicity of trade unions is one of the great weaknesses of labour culture in Bangladesh. As a result of their weak strength, trade unions in Bangladesh are facing several problems, like increasing political influence, inter- and intra-union rivalries, and unhealthy competition in the Collective Bargaining Agreement (CBA) election. The ready-made garment sector unions lack mainly three types of shortcomings: autonomy, legitimacy, and efficacy (Hossain and Afroza, 2022). The representatives have limited autonomy from the employer and government in trade union organising; they lack adequate legitimacy in the constituency they represent and lack the efficacy to articulate the worker's voice due to multiple, factional, and fragmented interests. Trade unionism and political parties' relationships are an open secret in our country. In independent Bangladesh, such open relationships between trade unions and political parties adversely impact real trade union culture. Again, the ruling party's control over trade unions and their ideological relationship with civil society organisations lose their non-partisan character. The opportunistic nature of trade union leadership has also been responsible for the poor trade union culture in Bangladesh. Most trade union leaders served as intermediaries between political governments and factory owners. Even though our ready-made garment industry has many trade unions, some federations are always looking to expand their membership to attract foreign donors. This is called federation politics. But what changes do they make for their workers? These sold-out and ineffective trade unions in our industry are a major impediment to protecting workers' interests. Most of the trade unions in Bangladesh suffer greatly from inadequate funds. This unsound financial position is mostly due to low membership and a low rate of membership fees. After the Rana Plaza incident in 2013, there has been a landmark change in the approach to trade union registrations. There is a tendency for the Bangladesh government to establish a worker participation committee instead of a trade union in the garment industry. DoL statistics show that up to August 2020 (Social Dialogue, 2021); the number of total participation committees in RMG factories was 1,614. The data reveals that only 32 percent of RMG factories have formed PCs, as according to DIFE, there are 5,115 RMG factories in Bangladesh. But over time, Bangladesh's trade unionism in the garment industry has been regarded as the movement of the entire working class. But in partisan organisational reality, each trade union has lost the right to regulate its internal affairs. This partisan entry into labour-right politics cut off independent working-class politics. Lack of working-class ideology, disunity among workers, negative attitudes of employers, and unnecessary politicisation truly hampered actual trade unionism in Bangladesh.

Promise of a Constitutional Commitment but Conspiracy of Delay

One of the most fundamental freedoms humans are given is the freedom of association. It promises that everyone is free to organise, establish, and participate part in groups, whether formally or informally. As a fundamental political right of a citizen, freedom of association is guaranteed in the supreme law of the land, the "Bangladesh Constitution". The right to form a union, subject to government approval, is also guaranteed Bangladesh's constitution (article 38) has guaranteed the freedom of association for her citizens in the

following manner (Bangladesh constitution, 2023): Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order. In Bangladesh's constitution, the right to freedom of association has some mentionable attributes that give it a unique character. The commitment of the constitution is clearly defined to the free choice of trade unions, to form and join organisations of their own choosing in full freedom, and to join the organisation on the basis of political opinion without discrimination of any kind. But as we know, commitment and conspiracy are two different things. A commitment is a promise or pledge to do something. A conspiracy is an agreement between two or more people to commit a crime or do something illegal. The ugly truth is that it is for the union to protect the interests of its members; the Constitution does not give them any direct protection (Khan, 2002). There is always a conspiracy of delay and lame excuse in the garment sector not to establish freedom of association in a true manner.

Conspiracy Factors Affecting Freedom of Association in the Readymade Garment Industry

Arrest of Trade Union Leaders and Workers

It is a common practice that Bangladesh security agencies have arrested several prominent leaders of independent trade unions, creating a state of terror and fear among their families and children. Instead of taking the necessary measures to protect the workers' rights and negotiate with federation leaders, the security services take the final remedy of arrests and repression. It is worth mentioning that all the channels of dialogue and negotiations remain closed against their claims. The security forces never raised any concerns about discussing workers requests.

Workers Dismissal for Joining Unions or Participation in Strike Actions

There are few protections from dismissal for workers involved in the activities of a trade union. Employees who take part in trade union activities need additional protection from any kind of dismissal. Where an employee is dismissed for taking part in trade union activities, this means that the dismissal will be unfair. But from a Bangladeshi perspective, these practises are common in most garment factories.

Assassination of Trade Union Leader

The international community is deeply concerned about the assassination of a trade union leader in Bangladesh, in every regime. Indeed, a prominent labour leader, Mr. Aminul Islam, was brutally tortured and murdered. Mr. Aminul Islam was one of the activists who organised trade unions in the garment industry, encouraging union voices for the workers solidarity centre.

Prosecution of Union Leaders

It is very concerning that the prosecution of labour leaders in Bangladesh has become a troubling trend in a country where trade unionists and human rights defenders face tremendous risks to their lives and security and are therefore conducting their activities in an extremely precarious situation. It is a common scenario in Bangladesh: arrests during protests and disruptions of strikes. Extreme violence and repression towards workers are also regular phenomena in Bangladesh when organising trade union activities.

Retaliation against Striking Workers

In recent times, union activity has decreased. There is a struggling history of the trade union movement in garment history, and garment workers have gone on to unionise for generations. And many leftist federations were heavily involved in union activities. But due to freedom of association, the lack of labour activity in our country has come from workers fearing for their jobs if they choose to engage in labour activity. And it is true: there are some unscrupulous employers out there who may very well retaliate against

workers for standing up for their rights. But there are laws in place to protect you from that retaliation and give you a way to seek compensation if your employer does retaliate against you. But in practice, this is a dream, not a reality.

Excessive Bureaucratic Interference

Sometimes the reasons for the rejection of union registrations are completely fabricated and have no basis in the regulations, although workers try to present corrected forms several times as per the government's instructions. Public officials are under considerable pressure from employers who hold significant relationships with the government, and there is a hidden conspiracy with the state apparatus to keep the garment industry union-free (Vogt, 2017). Following some notable changes to the Bangladesh Labour Act, which improved certain provisions of the law in favour of the right to freedom of association, workers can now form unions without informing their employers; governments are not allowed from sharing lists of union members with factory owners; the number of votes required to authorise a strike has been reduced; workers are permitted external assistance when signing collective bargaining agreements; and WPC members should be elected instead of nomination. The biggest obstacle is meeting the requirement that at least 20% of all factory employees join the union in order to meet the criteria for registering as a factory trade union. Only permanent employees are permitted to become union leaders, which is another barrier to registration.

National Labour Legislation and Freedom of Association in Bangladesh

Freedom of association signifies to the power that groups enjoy in organising themselves in line with their own interests and in accordance with national legislation. In this context, Bangladesh's labour law allows workers the freedom to establish and join a union of their choice. Anyone who is an employee of an enterprise has the right to establish and join a union of their choosing (Section 176). Workers' trade unions are free to create and join federations with other unions, and they are also free to unite with any international organisation or confederation of unions (Section 176 C). The right to create one's own constitution and rules, choose one's own representatives, plan one's own administration and operations, and create one's own programmes belongs to trade unions (Section 176 d). It imposes specific obligations on the employer or trade union of the employer, as well as the person acting on their behalf, in order to protect against victimisation and discrimination, but it does not contain any specific provisions for interference protection on par with those found in international standards. These Freedom of Association (FoA) standards are well-developed and contain the international standards (Hossain, 2013). Hossain (2013) has mentioned that Bangladesh's national labour legislation also provides the following protections for workers: employers cannot terminate workers during the trade union formation phase, and there is a strict restriction on the transfer of trade union officials without their consent.

Bangladesh has ratified ILO Convention 87. However, for a variety of reasons, this international standard hasn't really translated. First, there is a contradiction with international norms. To form a trade union, there is a mandatory requirement of 20 percent of the total number of workers employed in any establishment or group of establishments, which does not correspond to norms on all workers' rights to form and join a trade union. This imposed numerical membership compulsion excludes a large majority of workers since it causes hindrances to their freedom to form and join unions. Second, the FoA and CB rights are both discriminatory and exclusive. Workers must support trade unions with a minimum of 20% of their workforce; however employers' organisations are exempt from this requirement. Third, representational barriers make the rights provisions ineffective. If a person is not employed in the establishment where the trade union is founded, he or she is not eligible to be elected as a member or a leader of the union. This provision prohibits employees from freely selecting their own representatives. Allegedly, owners of RMG companies form fake unions with the help of their own employees. As a result, the skeptical union leaders had referred to the recently registered trade unions in this industry as "eye wash." They believe that until

employees can genuinely utilise their right to organise into unions, the rise in unions is not indicative of progress. In actuality, there aren't many newly formed unions operating, and some have disbanded out of concern for company retaliation. It is proved by much research that many workers have been dismissed or terminated from jobs for their involvement in trade union activities. Availability of employment opportunities compels workers not to make louder their voices. Besides, due to longer working hours in a day, they hardly have time for trade union activities. In garment sectors, owners maintain paid gangsters to prevent trade union pursuits. Once a union is formed in any factory or establishment, the employer singles out its leaders, then beats them severely, and sends the unionist workers to the police custody. In some cases, the concerned workers are beaten to death or disappeared. A worker who survives the torture is compelled to sign on a blank paper which is later fabricated as his resignation letter. The employer manipulates this fabricated paper as an instrument to deprive the concerned worker of his due benefits. The employer exhibits the information of fired workers to other factories in an effort to prevent them from finding employment there, so the persecution continues. Such methods had been used to fire or dismiss a large number of permanent employees. They have experienced anxiety as a result of losing their jobs because they are the main earners for their families. Additionally, under Section 190(2) of the Labour Act, the Director of Labour is the only party with the authority to cancel trade union registrations, despite requests by business owners filed with the Labour Court. Due to civil society and trade union appeals, labour legislation underwent profound changes in the subsequent period.

Politics of Obedience and Elite Domination

The BGMEA has consistently maintained an obedient relationship with succeeding governments, which has allowed it to obtain plenty of favours from those regimes and exercise a certain degree of autonomy in managing labour governance of the industry (Khan, 2013). High-level political engagement is prevailing in business in Bangladesh, and the garment industry is now benefiting from those connections. From a broader perspective, the Bangladesh government has depended on garment employers for economic growth. Garment employers are strongly represented in parliament and have benefitted accordingly. Although the government acceded to international pressure to improve labour standards, the Labour Act of 2006 was introduced with inadequate resourcing many years after the garment industry became Bangladesh's leading sector (Rahman, 2014). Employers' power and profitability were never endangered (Ahmed et al., 2014; Alamgir and Banerjee, 2019). In the 1990s, business interests used the BGMEA to mobilize for electoral power in place of urban middle class politicians (Kochanek, 2000). Additionally, it is noteworthy that a significant number of national parliamentarians come from business and industry (between 57% and 56% in the past and current parliaments). The prominence of garment manufacturing within Bangladesh's business sector as a whole suggests that it is likely that a significant percentage has personal interests or close connections with the industry, even though a number for RMG owners among businesspeople in parliament is not apparent.

DISCUSSIONS AND FINDINGS

Bangladesh inherited 15 laws from the British colonial period and 23 Pakistani rules and regulations, and thus the Bangladesh Labour Act is a combination of these laws and regulations (Hassan et al., 2022). The trade union movement in Bangladesh originated in British India and Pakistan and was divided along political and ideological lines. On that occasion, most trade unions worked more as a nationalist force against colonial domination than as a class force against capitalist exploitation. During this period, the trade union movement was marked by direct interference by the government and ruling party in its internal affairs, leading to terrorism and the barring of outsiders from leadership at the basic union level. This made the workers a weak and defenceless community. In the early 1980s, the military government of Bangladesh banned all trade union activities, leading to the formation of the Sramik Karmachari Oikyo Parishad (SKOP). Since 1983, most trade union movements in Bangladesh have been organised under the leadership

of SKOP. Trade unions in Bangladesh's ready-made garment industries are composed of mainly three categories: basic trade unions, industrial federations, and national federations. Basic trade unions are the primary organisation of workers at their workplace, while industrial and national trade unions are related to different industries. The trade union movement in RMG is mostly controlled and funded by political party-led federations. According to Article 200 (1) of BLA 2006 (amended in 2013), any five or more registered trade unions formed in establishments engaged in, or carrying on, similar or identical industries may, if their respective general bodies so resolve, constitute a federation by executing an instrument of federation and applying for the registration of the federation. At present, a total of 108 industrial federations are registered. Multiplicity of trade unions is one of the great weaknesses of labour politics in Bangladesh. As a result of weak strength, trade unions in Bangladesh is facing a number of problems like increasing political influence, inter and intra-union rivalries, unhealthy competition in Collective Bargaining Agreement (CBA) election.

Commitments reflected in constitution and labour laws are very clear to protect and satisfy worker rights. But there has been an inclination to impose restrictions on freedom of association in Bangladesh since its very inception. These restrictions imply apparent explicit attacks on civil society groups (CSOs) by not only autocratic but also democratic governments in Bangladesh. Alexander (2008) mentions that the freedom to associate and the freedom to refrain from associating are both positive and negative aspects of freedom of association. These restrictions prevent people from associating with people they would otherwise choose not to or force them to associate with people they would otherwise choose not to. Bangladesh's National Tripartite Plan of Action on Fire Safety and Structural Integrity in the Ready-Made Garment Sector assumes that workers are not free to organise and give a negligible voice to their concerns about safety (ILRF, 2015). There are numerous incidents recorded by an international organisation (Human Rights Watch, 2022), like anti-union discrimination, physical assaults on workers and trade unionists, attacks on trade union premises, termination from employment, discrediting, dismissal, and physical violence. A permanent employee at a company must give his employer 14 days' notice if he wishes to quit or one month's notice if the employee is paid on a monthly basis. Termination is considered a "discharge" in the case that an employee is fired for reasons of mental or physical incapacity, illness, or other reasons not related to misconduct by the employee. An employer must pay compensation when a termination is unrelated to discharge or dismissal and must give justification when they do terminate on grounds of discharge or dismissal. It is the most common weapon employers use to sack workers when they try to organise or raise their voice. Most industrial federations participate in party politics. They are arguably dependent on the political party's support for any decision. So they work towards attaining political goals as well as their own rather than establishing labour rights. So whether or not any strikes take place, most of the trade union strike activities are questionable and lack a non-partisan character. In this situation, employers claim that if workers are given freedom of association, then the industry will face the same tragic end as our jute industry. In Bangladeshi culture, being cooperative, participating, and struggling to achieve are norms that are highly appreciated. When tasks are not completed on time, procrastination occurs, directly violating these norms. The act of procrastinating entails putting off responsibilities, decisions, or required duties. While freedom of association in the Bangladeshi garment sector is permitted with several reasonable conditions, it is undoubtedly impeded in the above-mentioned manner. Bangladeshi trade unions, particularly in the readymade garment industry, cannot exercise their state-promised commitment to effectively represent their workers' interests due to the conspiracy of mighty employers and the intimate nexus of state-corrupted bureaucracy. Cultural barriers, poor law enforcement, the complexity of the apparel industry, an imbalanced power relationship, and the incapacity of workers are also liable for establishing freedom of association in the readymade garment industry (Kerckhoffs, 2019).

CONCLUSION

Political as well as organisational aspects are also considered under the right to freedom of association. This right has greater meaning in the context of the labour movement because it permits employees to form

associations and consequently encourages their pursuit of political aspirations. Bangladesh's labour laws have been implemented in accordance with the core ILO Conventions and the Constitution, which is the highest law of the state. The ILO agreements are not followed when labour market laws are not enforced. The same effects of a statutory exclusion are frequently experienced due to lax implementation of national labour laws and ILO treaties. The garment workers in Bangladesh face many hurdles in their journey to freely enjoy their universal rights to association and collective bargaining as enshrined in Chapter XIII of the Labour Act as well as ILO Conventions 87 and 98. Taking advantage of low costs, multinational corporations and their subcontractors are accused of allowing violations of labour rights in developing nations like Bangladesh (Morshed, 2017). In this case, either there is an absence of labour unions or they cannot function freely or without any fear in their workplaces or outside. In practical terms, the full functioning of trade unions is ineffective and absent in Bangladesh due to business elite-favoured policy and the absence of a liberal environment for unions' organising, registration, being recognised, settling disputes, engaging in collective bargaining, and striking. This has created a dysfunctional system of organised and autonomous trade unions in the garment sector. Though many unions are trying to raise their voices with the help of international NGO-driven efforts, most of the others are performing a puppet show. The prevalent noncompliance culture also makes workers' suffering, manufacturing costs, and Bangladesh's sustainable development worse. The RMG industry is the backbone of the Bangladeshi economy; it has significantly decreased poverty by providing millions of ill-fed women with jobs. So encouraging labour rights can guarantee garment workers a sustainable livelihood, which in turn enhances the sustainability of the RMG industry. The political instability of many Asian countries also paved the way for the steady growth of the ready-made garment industry in Bangladesh. But political stability greatly deteriorated due to labour unrest in the ready-made garment industry. The future of the readymade garment industry in Bangladesh is arguably dependent on working with international brands, suppliers, and retailers and maintaining their social compliance principles, in which workers' physical safety, working environment, and right to freedom of association are mandatory issues. It is a crying need to conduct an in-depth review of the prevailing limitations of the associational rights of workers in order to ensure freedom of association or add timely amendments in accordance with the spirit of the core ILO Conventions. To promote freedom of association in the apparel industry, the effective application of national labour laws and adherence to fundamental international labour norms may be a solution.

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