

(1) Submitting Organisation

The International Centre for Trade Union Rights (ICTUR) was founded in 1987 in order to defend, extend, and raise awareness of trade union rights and their violations worldwide. ICTUR was founded in response to “an attack on trade union rights by transnational employers” and “to take up the struggle for liberation from neo-colonialist and transnational corporation exploitation”. ICTUR is an unincorporated association based in the UK affiliating an international network of unions, lawyers and human rights organisations.

ICTUR has consultative (roster) status with the UN ECOSOC and it is accredited to the ILO Special List of INGOs, since 1993. ICTUR’s main activities include monitoring labour rights, research, publishing, submissions to international human rights processes, and assistance to trade unions. ICTUR publishes: *International Union Rights* journal (1993 - present); the *World Map of Freedom of Association* (latest: 6th edition, 2019); and the reference book *Trade Unions of the World* (latest: 8th edition, 2021).

(2) International Human Rights Obligations

The Universal Declaration of Human Rights makes it clear that “everyone has the right to form and to join trade unions for the protection of his interests” (Article 23(4)).

Bangladesh ratified the International Covenant on Economic, Social and Cultural Rights ("CESCR") in 1998 and the International Covenant on Civil and Political Rights ("CCPR") in 2000. The CESCR obliges State parties to ensure the right to form and join trade unions, including at national and international level. It requires that trade unions have the right to function freely and to take strike action (Article 8). The CCPR stipulates that, “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

Bangladesh joined the International Labour Organisation ("ILO") as an independent State in 1972 and has ratified 38 international labour Conventions including ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948) and ILO Convention No. 98 on the Right to Organise and Collective Bargaining (1949), which were ratified immediately on joining. Bangladesh has now ratified 36 ILO Conventions, including Convention No. 138 (ratified last year, see following section).

(3) Previous UPR cycle

Within the previous UPR cycle, Bangladesh supported a number of recommendations from States around the protection of human rights, that it should: “Continue to strengthen national mechanisms that strengthen the human rights situation”¹, and “Promptly and thoroughly investigate all allegations of extrajudicial execution or enforced disappearance and bring those responsible to justice”². NGOs criticised what were

¹ 147.3, Sudan

² 147.54, Switzerland

referred to as “gross human rights violations perpetrated by the state”³, noting that law enforcement agencies “often stage extrajudicial killings as deaths in ‘gunfights’ or ‘crossfire’. The perpetrators enjoy impunity in almost all cases”⁴.

Bangladesh also accepted several recommendations made by States aimed at improvement of labour rights, including that it should: “Amend the Bangladesh Labour Act and Export Processing Zone Labour Act, in consultation with workers and employers, to ensure the provisions on freedom of association conform to international labour standards”⁵ and; “Take effective measures to protect workers’ rights, including by ... improving working conditions”⁶.

Several NGOs commented: “despite good progress after the Rana Plaza disaster, poor working conditions and safety standards, low wages, irregular payment of wages, weak implementation of union rights continue and workers are often targets of violence for union activities”⁷; “Since Bangladesh’s second UPR, the status of workers’ rights in the formal and informal sectors has remained poor [...] workers continue to face denial of their rights, particularly in the garment industry [...] the overwhelming absence of trade unions in factories remains a key issue of concern”⁸; with “threats after attempting to create or join labour unions”⁹; “intimidation by authorities towards labour organisers, with many alleging that after December 2016 wage strikes, they are being charged with falsified criminal cases”¹⁰; “union leaders and those seeking to join unions faced threats and opposition from factory managers and owners, including violence in some instances”¹¹; and calls to “make it easier to establish trade unions in factories, and stop practice of harassing those who seek to join or establish unions”¹².

Under the last UPR review, Bangladesh did not accept recommendations to “Ratify the ILO Minimum Age Convention, 1973 (No. 138)”¹³. However, Bangladesh did ratify that instrument on 22 March 2022. We welcome this ratification.

(4) Barriers to Trade Union Registration, Bargaining, and Strikes.

³ JS15

⁴ JS15

⁵ 147.109, United States of America

⁶ 147.114, Botswana

⁷ Bangladesh, UPR 3rd cycle submission JS11 (Human Rights Forum, Bangladesh (HRFB)), at: https://www.upr-info.org/sites/default/files/documents/2018-04/js11_upr30_bgd_e_main.pdf

⁸ Bangladesh, UPR 3rd cycle submission JS15 (Odhikar, AFAD, ALRC, FORUM-ASIA, CIVICUS, FIDH, OMCT and Robert F. Kennedy Human Rights), at: https://www.upr-info.org/sites/default/files/documents/2018-04/js15_upr30_bgd_e_coverpage.pdf

⁹ Bangladesh, UPR 3rd cycle submission from International Service for Human Rights, at: https://www.upr-info.org/sites/default/files/documents/2018-04/js4_upr30_bgd_e_main.pdf

¹⁰ International Service for Human Rights

¹¹ Bangladesh, UPR 3rd cycle submission from Human Rights Watch, at: https://www.upr-info.org/sites/default/files/documents/2018-04/hrw_upr30_bgd_e_main.pdf

¹² Human Rights Watch

¹³ 149.12, Madagascar

The trade union law has long contained numerous barriers to trade union registration, bargaining, and strikes. Repeated revisions and modifications have failed to address the core problems. The Bangladesh Labour Act 2006 marked the start of a process of reform, but opened with an extensive list of exclusions of industries and categories of workers, leaving them outside of the industrial relations framework. Those excluded include teachers, nurses and care workers, shops, hostels, hospitals, government offices, small farms, domestic servants, seafarers and ocean-going vessels, and some public servants¹⁴. Managers and administrators are “not workers” (and therefore are also significantly excluded the Act)¹⁵. Up to half a million workers in the Export Processing Zones (EPZs) are also outside of the Act, and cannot rely on the industrial relations system it establishes.

In sectors where unions *can* be formed there are significant obstacles to freedom of association, ranging from the inconvenient requirement that those joining a union must use a specified official form¹⁶ to the very problematic fact that registration (a requirement for a union to operate lawfully) is possible only once a union has already organised a fifth of the workforce¹⁷. We welcome the reduction of this threshold that occurred in 2013, but a serious problem remains, which is that prior to achieving this level of membership - the early stages of union organising - might incur criminal penalties (below). Employers frequently resist organising drives, and respond harshly to any sign of trade union activity. There are overly prescriptive rules for trade union internal activities, including elections¹⁸. The Registrar has wide powers to investigate the internal affairs of unions and cancel registrations¹⁹. Being a member of more than one union is a criminal offence²⁰.

Unregistered unions are criminalised but exist on a large scale and have traditionally played an important activist role. They cannot use the statutory bargaining or strike frameworks. Participation in the activities of an unregistered labour organisation is banned²¹, and may incur criminal penalties punishable by a prison term²². The penalty is arbitrarily applied in practice. Because many unions have remain unregistered, informal methods for promoting workers’ demands are quite common, but these may be criminal²³ and may also constitute an unfair labour practice²⁴. Various informal strategies to apply pressure such as go-slow practices²⁵ and obstruction of workplaces are similarly proscribed²⁶.

Strike laws remain restrictive, with a requirement of 66% support to make a strike legal²⁷.

¹⁴ s. 1(4) Bangladesh Labour Act, 2006).

¹⁵ s. 65 Bangladesh Labour Act, 2006

¹⁶ s. 179(1)(c) Bangladesh Labour Act, 2006

¹⁷ s. 179 (2) Bangladesh Labour Act, 2006, the threshold was reduced from 30 percent by an amendment in 2013

¹⁸ s. 179(1)(j-m) Bangladesh Labour Act, 2006

¹⁹ s. 190 Bangladesh Labour Act, 2006

²⁰ s. 300 Bangladesh Labour Act, 2006

²¹ s. 192 Bangladesh Labour Act, 2006

²² s. 299 Bangladesh Labour Act, 2006

²³ s. 192 Bangladesh Labour Act, 2006

²⁴ s. 196(2)(d) Bangladesh Labour Act, 2006– *emphasis added*

²⁵ s. 196(2)(e) Bangladesh Labour Act, 2006

²⁶ s. 196(2)(f) Bangladesh Labour Act, 2006

²⁷ s. 211(1) Bangladesh Labour Act, 2006 – *reduced from 75% by 2013 Act*

Essential services are prohibited from striking (and further criminalisation of strikes in this sector has been outlined in the draft of the Essential Services Act 2022). Strikes lasting more than 30 days may be banned by the government and referred to arbitration²⁸. Strikes are banned for the first three years of operation of “foreign” owned establishments²⁹. And strikes in public utilities can be banned³⁰. There are criminal penalties for those participating in or organising unlawful strikes³¹.

Global outcry over the Rana Plaza factory collapse prompted revision of the law in 2013. More than seventy articles were amended, but there was no deep or far-reaching change to the position for trade union rights. There were improvements, of course, mainly around individual employment rights and health and safety provision. The threshold required to endorse strike action was reduced from 75% to 66% (this is a positive development, but the threshold is still very high by international standards). Teachers in *for-profit* schools were brought within the industrial relations framework for the first time³². But the not-for-profit education sector remained outside of the law, as did many other excluded sectors, such as staff in hospitals, supervisory staff in all sectors, and workers in export zones. The 2013 Act added supervisors to those excluded from the definition of “workers”³³, and it introduced additional restrictions on the right to federate and form national centres³⁴.

A further revision to the Act in 2018 only introduced two significant changes for trade union rights. Firstly, some protection against employer retaliation during an organising drive³⁵, the substance of which was welcome but underwhelming, and clarification that a works council style body (the “participating committee”) is not required to be formed in establishments where a trade union is registered³⁶. The Bangladesh Labour Rules have also been repeatedly amended, most recently on 1 September 2022³⁷. However, further revision is reported to be underway.

The 1980 Bangladesh Export Processing Zones (EPZ) Authority Act deprived some 400,000 workers of labour law and trade union protections, as a strategy to attract foreign investment. The Government in 1992 said it would end restrictions on the formation of unions in the zones by 1997, and would apply the labour law in full by 2000. This did not happen. There has been gradual extension of workers “welfare associations” from 2001, but pledge to provide freedom of association in 2004 did not happen. Further EPZ legislation adopted in 2004, 2010, 2014, and 2019 did nothing to legalise unions in the EPZs. The “participatory committees” and “welfare associations” that are permitted are not equivalent to trade unions. The Bangladesh EPZ Labour Act 2019 reduced the threshold for support required to establish an association from 30 to 20 percent. This is a positive move, but these bodies remain a poor substitute for trade unions, with no collective bargaining rights and restrictions on their links with unions and NGOs outside the EPZ. Unions remain banned from the EPZs in what amounts to a continuing breach

²⁸ s. 211 (3) Bangladesh Labour Act, 2006

²⁹ s. 211(8) Bangladesh Labour Act, 2006

³⁰ s. 211 (4) Bangladesh Labour Act, 2006

³¹ s. 294 Bangladesh Labour Act of 2006

³² s. 2(a) Bangladesh Labour (Amendment) Act 2013

³³ s. 65 of the 2006 Act

³⁴ s. 55(a - c) of the Bangladesh Labour (Amendment) Act, 2013

³⁵ s. 196(a), Bangladesh Labour Act 2006, as amended by 2018 Act

³⁶ s. 205, Bangladesh Labour Act 2006, as amended by 2018 Act

³⁷ Statutory Regulatory Order (SRO) No.-284-Law/2022

of freedom of association.

(5) Violence and Repression Against Trade Unionists

Due to a multitude of barriers that make it difficult for workers to access effective and legal dispute resolution channels (see above), workers and unions frequently take their demands to the streets in unofficial protests and blockades. Violence and repression against trade unionists, including by police officers, is a significant and continuing problem. Police often respond to workers protests with violence or arrests, while employers rely on threats and dismissals.

ICTUR notes that the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has for several years criticised the situation in Bangladesh, and in 2019 a Complaint³⁸ was raised against Bangladesh at the International Labour Organisation, leading to the development of a "Road Map" to address four priority areas relating to freedom of association and labour rights. The ILO Road Map called on the Government to address anti-union discrimination, unfair labour practices and violence.

Further to Action Point 4.1.3 of the Road Map, a Bangla language "compendium" of relevant laws, rules and regulations (including the use of force) is to be compiled for training purposes of the Industrial Police and other law enforcement agencies. We understand that the Industrial Police authorities are entrusted to carry out this task themselves, but that so far little progress has been made. We note that on numerous occasions the Industrial Police have been implicated in serious violence against trade unionists. For this reason we encourage the government to ensure the involvement of independent third party expertise in the development and implementation of this training.

Highlighting the on-going problems, which include serious police violence, we outline below a list of serious incidents recorded by our NGO since late 2016 follows:

- On 21 December 2016, in response to a strike over pay in the Ashulia garment sector in Dhaka, 1600 workers were suspended or dismissed, police arrested eleven strike leaders under the Special Powers Act 1974, criminal cases were opened against 600 workers but the leaders were released and charges dropped 2 months later.
- On 27 and 28 May 2017, workers at the Azim Group's Orchid and Savar factories in Chittagong were threatened and physically attacked in front of the factory gates. Police did not intervene as union leaders were assaulted. The attackers later visited the union leaders' homes and threatened their family members.
- On 29 January 2018, a protest was held following the dismissal of a union organiser at Ashiana Garment Ind., Dhaka. The union, affiliated to the Garments Workers' Trade Union Centre (GWTUC), had had been refused registration by

³⁸ Article 26, ILO Constitution

the authorities. The owners closed the factory in response to the protest, describing it as an “illegal strike”. On 31 January, workers and GWTUC attended a meeting at the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), only to discover that the meeting was cancelled. They were then set upon by a group armed with iron rods and sticks, leaving thirty-seven workers with serious injuries. The BGMEA called for criminal charges against the union, and several leaders were arrested and briefly detained.

- In October 2018, striking workers at two garment factories, Intramex Group in Gazipur and Soad Fashions in the Narayanganj EPZ in Shiddhirganj, were demanding overdue wage payments when their protests were attacked by police, who used teargas, batons and rubber bullets. Seventeen Intramex workers were injured, two of whom were hospitalised. Three Soad workers were arrested and around fifty were injured.
- On 8 January 2019, police fired rubber bullets and tear gas at a group of up to 10,000 striking garment workers in Savar on the outskirts of Dhaka, killing one worker and injuring around 50 more, including bystanders, who gave evidence to Human Rights Watch that police were “just shooting randomly”³⁹.
- On 9 January 2019, police deployed a water cannon to disperse thousands of striking workers in Savar, near Dhaka. Workers were protesting over low wages, rising living costs, and factory closures. Thousands of workers were reported dismissed, and unions claimed that blacklisting may prevent them finding other work.
- On 17 April 2021, police fired on a crowd of at least 2000 striking workers, killing at least seven workers and injuring up to one hundred when workers protested over working hours and conditions, including water and hygiene facilities, and overdue wages at the Banshkhali power plant in Chittagong.
- On 10 May 2021, 20 garment workers were injured when rubber bullets and tear gas were fired by police to end a demonstration at the Creative Collection factory in Gazipur where workers were demanding an extended holiday break that had been agreed between their trade union council and the BGMEA employers association. After the violent suppression of the dispute the company conceded and honoured the holiday agreement.
- On 13 June 2021, garment worker Jesmin Begum died from head injuries sustained during a fall when police charged a workers’ protest. The police used tear gas, rubber bullets and water cannons in an attempt to clear a road that had been blocked by the protestors for two hours. The protest was being held outside the Lenny Fashions and Lenny Apparels garment factories that closed in January 2021 owing unpaid wages to more than 6000 workers.

³⁹ <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers>

- On 15 February 2022, 25 people were injured when police used baton charges to clear a demonstration by protesting garment workers from Gooryong Fashions Ltd in Gazipur. The workers were protesting about the dismissal of a number of their co-workers.
- On 7 June 2022, the President of the Coca-Cola Employees Union was kidnapped from a public bus and severely beaten by a group of attackers.
- On 1 February 2022 at least ten employees of Tivoli Apparels Ltd were injured when police fired shots, sound grenades, and tear gas to clear a protest.

(6) Recommendations

The submitting organisation calls on Bangladesh to:

(Labour and Trade Union Law)

- Follow the “Road Map’ agreed with the ILO and implement the recommendations of the ILO supervisory bodies
- Urgently de-criminalise the status of union organisers and trade unions that have not yet achieved “registered” status
- Extend the provisions of the Bangladesh Labour Act to cover and include all workers and all sectors, including those currently excluded from the trade union law
- Introduce full trade union rights to the EPZs

(Violence against trade unionists)

- Establish prompt, effective, and independent investigations into all reported cases of violence against trade unionists
- Identify the perpetrators, and other relevant persons found to have contributed to the circumstances of these deaths, including where these may include police officers, and ensure that all guilty parties are brought to justice
- Continue and expand the ILO “Road Map” strategies for police training
- Seek the assistance of third party human rights and labour expertise in the design and implementation of police training programmes