

Akiko Gono

President
Présidente
Präsidentin
Presidenta

**Office of the High Commissioner for Human Rights
UPR Secretariat
Palais des Nations
CH-1211 Geneva 10, Switzerland**

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ITUC/LEX

To the UPR Secretariat,

The International Trade Union Confederation (ITUC), representing 200 million workers in 163 countries would like to make a written contribution to the Universal Periodic Review of during the 44th session.

In this submission, the ITUC raises concern about the following issues:

- Police brutality against striking workers, especially in the garment sector;
- Anti-union discrimination, denial of justice and backlog of labour cases;
- Legislative gaps and shortcomings;
- Restrictions on free association in the garment sector.

With respect to each of the above-mentioned concerns, the ITUC calls upon the Working Group on the UPR and the Human Rights Council to make a number of recommendations to the Bangladeshi authorities.'

Yours sincerely,



Deputy General Secretary

Bangladesh
UPR Review
44th session of the UPR Working Group (November 2023)

ITUC submission

The International Trade Union Confederation (ITUC) represents 200 million workers in 163 countries and territories and has 332 national affiliates. The ITUC's primary mission is the promotion and defense of workers' rights and interests through international cooperation, global campaigning and advocacy. ITUC works closely with the ILO and other UN Specialized Agencies. ITUC enjoys General Consultation Status with the UN ECOSOC.

In this submission, concerning the UPR of Bangladesh, the ITUC raises concern about the following issues:

- Police brutality against striking workers, especially in the garment sector;
- Banning trade union meetings;
- Anti-union discrimination, denial of justice and backlog of labour cases;
- State surveillance of trade unions;
- Legislative gaps and shortcomings;
- Restrictions on free association in the garment sector.

Violent crackdowns on strikes and retaliation against workers in the garment sector

The ITUC notes with deep concern that the climate for the exercise of trade union rights and the protection of workers is getting worse in Bangladesh. Strikes and protests are met with extreme brutality by the police, who use batons, gunshots, tear gas and sound grenades against workers, killing at least six workers and injuring dozens more in 2021.

These violations, and impunity of perpetrators that follows, demonstrate lack of implementation of the recommendations received after the last UPR: 148.17

(Norway);¹ 147.80 (Republic of Korea);² 147.86 (Ireland);³ 147.71 (Switzerland);⁴ 147.66 (Canada);⁵ 147.73 (New Zealand).⁶

A non-exhaustive list of violent police repression include the following:

On 15 February 2022, the industrial police in Gazipur attacked 500 protesting garment workers. At least 20 people were injured in the police attack.

On 1st February 2022, at least ten employees of a company in the Tongi Industrial Area were injured by the police during a protest by workers against sexual harassment. The police is reported to have fired at least 10 rounds of sound grenades, 30 rounds of shotgun shells and six rounds of tear gas to disperse the workers.

At least five people were killed and dozens injured on 17 April 2021 after police opened fire on a crowd of workers protesting to demand unpaid wages and a pay rise a construction site of the coal-fired plant in the south-eastern city of Chittogram, Bangladesh. The workers were protesting over unpaid wages, unscheduled cuts in their working hours and for a Ramadan holiday and reduced hours during the religious festival.

At least 20 workers were injured when a clash broke out on 15 September 2019 between garment factory workers and police in Narayanganj. The Sinha-Opex Garments factory workers were protesting at the non-payment of salaries and allowances and the sacking of workers over the last three months without prior notice.

These tragic events show a pattern of police attacks at protesting workers or attacking trade union meetings. We are concerned that events go uninvestigated and unpunished resulting in impunity by the police and security forces and their desire to insert themselves in industrial relations contrary to internationally recognized labour standards, including those contained in the ILO Conventions 87 and 98.

Anti-union discrimination, denial of justice and backlog of labour cases

¹ 148.17 Investigate all allegations of human rights violations by the police and security forces and take legal steps so that those responsible for enforced disappearances, custodial torture and extrajudicial killings are held accountable (Norway)

² 147.80 Ensure effective protection of the lives and security of human rights defenders and journalists against human rights violations, including enforced disappearance, torture and extrajudicial killings (Republic of Korea);

³ 147.86 Ensure that investigations into cases of killings, abduction attempts, physical attacks and threats against human rights defenders are prompt, effective and impartial (Ireland)

⁴ 147.71 Ensure democratic space for all political actors, including the implementation of domestic laws, without restrictions on the exercise of the rights to freedom of expression and of peaceful assembly (Switzerland)

⁵ 147.66 Take prompt and effective measures to ensure that freedom of assembly and expression extends in practice — both online and offline — to all people, media, civil society and political parties, throughout the upcoming election campaign and beyond (Canada);

⁶ 147.73 Safeguard freedoms of political expression and association, without reprisals, censorship, intimidation or restrictive legal action, and that Bangladesh safeguard the independence of media (New Zealand)

We note once again the lack of proper training on labour law including international labour standards and the absence of court processes to ensure speedy and effective trials and delivery of justice continue to result in delays and backlog which seriously undermine justice delivery to workers. Regrettably no progress has been made regarding the development of a standard operating procedure (SOP) for a conciliation system through tripartite consultations and with the technical capacity support of the ILO.

These violations demonstrate lack of implementation of the recommendations received after the last UPR: 147.113 (Palestine);⁷ 147.121 (Serbia);⁸ 147.85 (Benin).⁹

ITUC is deeply concerned that the government of Bangladesh has not taken steps to address anti-union discrimination, unfair labour practices and violence against workers. The government has failed to investigate existing complaints and has also failed to take concrete steps, in consultation with tripartite constituents, to conduct training for factory security staff, police and employers to prevent violence, harassment, unfair labour practices and anti-union attacks.

In the context of COVID19 pandemic, the Bangladesh Garment Workers and Industrial Federation (BGWIF) reported trade union repression in a third of the factories where their union operates. Without union leaders on the factory floor, remaining workers were more vulnerable to exploitation and had little leverage to demand fair wage payment and decent working conditions if they are unable to organise collectively. The combination of massive job losses and the purging of union activists could lead to worsening conditions for employees, including forced labour.

In June 2020, 3,000 garment workers were reportedly dismissed as part of a union busting exercise from three factories owned by the same company in Gazipur and Dhaka, Bangladesh. The three unionised factories are owned by the parent company (which owns an additional five non-unionised factories) and according to media reports, supply major multinational brands in the textile sector. According to unions, 1,600 workers were fired from the first company, 1,200 from the second and 200 from the third. The unions claim that each time workers from the three factories have attempted to form unions, they have been dismissed. The dismissed workers have been staging hunger strikes and other protests at the factory premises to call for reinstatement.

Legislative gaps and shortcomings

The law in Bangladesh continues to be inconsistent with the international labour standards.

⁷ 147.113 Improve the working conditions of women by monitoring and punishing lawbreakers among employers (Palestine)

⁸ 147.121 Strengthen the existing national monitoring mechanisms aimed at protection of women workers from all kinds of discrimination, in particular those working in informal sector (Serbia)

⁹ 147.85 Continue efforts to improve and speed up the processing of cases in the courts (Benin);

This lack of labour law reform demonstrates lack of implementation of the recommendations received after the last UPR: 147.109 (USA);¹⁰ 147.110 (Italy).¹¹

Despite nearly a decade of promises to reform its labour laws post-Rana Plaza, the relevant laws and rules still prevent workers from exercising their right to form and join trade unions, to bargain collectively and to strike. ILO supervisory bodies have long been commenting on the pressing need to review the Bangladesh Labour Act (BLA), Bangladesh Labour Rules (BLR) which implement the BLA, the Export Processing Zone Labour Act (ELA) and EPZ Labour Rules (ELR) which implement the ELA.

- Legal gaps in protection in the BLA and BLR

In 2013, the Government enacted amendments to the BLA in the immediate wake of the Rana Plaza disaster. ILO monitoring bodies issued detailed guidance on the shortcoming of the regulation and the ways to make it compatible with the ILO standards. The Government still has not fully addressed these comments.¹²

The amendment of the Bangladesh Labour Rules (BLR) took place only in September 2022 and failed to remedy the legal gaps indicated by the workers as well as the ILO supervisory bodies.¹³

Accordingly, the BLA and the BLR continue to be incompatible with the ILO standards, including in relation to the following issues:

- Excessive threshold for setting up a trade union - With the BLA, the minimum number of workers to establish a union at a factory was reduced from 30 percent to 20 percent of the workforce. However, as amended, this threshold is still excessing and not in conformity with ILO Convention 87. As a practical matter, particularly in large factories, it is difficult to imagine how several hundreds of workers could be organised and convened for a founding meeting as required by law in order to apply for and obtain registration.
- Exclusion from the right to form and join trade unions – by adopting a broad definition of administrative and supervisory officers who are excluded from the definition of workers under the BLA and thus from the right to organize

¹⁰ 147.109 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 (USA)

¹¹ 147.110 Adopt further measures to guarantee workers' rights, also in line with the "Sustainability Compact" (Italy).

¹² Observation (CEACR) - adopted 2022, published 111st ILC session (2023). Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) - Bangladesh (Ratification: 1972); available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:P13100_COUNTRY_ID:4322754,103500. In this report, the ILO Committee of Experts has expressed regret that "the Government has not provided any further information in relation to the numerous sections for which the Committee has requested amendment, repeal or further information".

¹³ *ibidem*. The ILO Committee of Experts has expressed deep regret that "the Government appears not to have taken advantage of the recent revision process to address the above-mentioned concerns and urges it to ensure an expedited review of these remaining issues so that the Bangladesh Labour Rules may be brought fully into conformity with the provisions of the Convention".

- The limitation of eligibility to a trade union office only to workers with a permanent contract
- The BLR lacks provisions providing appropriate procedures and remedies for unfair labour practice complaint
- Sanctions for strike action - the BLA provides sentences against workers participating in illegal strikes. While amendments have reduced the penal sanctions from one year to up to six months, the provisions still violate the international labour standard that no one should be criminalized for taking part in the peaceful strike.
- Serious legal impediments to registration and arbitrary refusal to register unions - arbitrary denial of registration is one of the principal means that the government uses to frustrate the right to freedom of association of Bangladeshi workers. Indeed between 2010 to 2018, of the 1,031 union registration applications, the Department of Labour rejected 46 per cent of them - an extraordinarily high rejection rate.

Restriction on freedom of association in the garment sector - Legal gaps in protection in the ELA and ELR affecting labour and trade union rights of workers in EPZs

The ELA was adopted in 2019 and was passed on in July 2021, repealing the EPZ Workers Welfare Association and Industrial Relation Act (EWWAIRA). The ELA continues to contravene ILO labour standards. On October 4, 2022, the government issued the long delayed ELR. However, most of the required changes have not been addressed..¹⁴

This lack of labour law reform demonstrates lack of implementation of the recommendations received after the last UPR: 147.109 (USA);¹⁵ 147.110 (Italy).¹⁶ 147.111 (Jordan);¹⁷ 147.112 (Ecuador);¹⁸ 147.113 (Palestine);¹⁹ 147.117 (New

¹⁴ Ibidem. As observed with deep regret by the ILO Committee of Experts “most of the changes to the Act that [the Committee] had requested have still not been addressed. As a result, many of the issues already raised in relation to the 2019 ELA continue under the unchanged EPZ Labour Rules”.

¹⁵ 147.109 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 (USA)

¹⁶ 147.110 Adopt further measures to guarantee workers’ rights, also in line with the “Sustainability Compact” (Italy).

¹⁷ 147.111 Continue efforts to strengthen labour inspection authorities to conduct assessments of the safety of workplaces (Jordan)

¹⁸ 147.112 Take the necessary steps to hold companies accountable for practices with a negative impact on workers’ health, well-being and safety (Ecuador)

¹⁹ 147.113 Improve the working conditions of women by monitoring and punishing lawbreakers among employers (Palestine)

²⁰ 147.117 Continue efforts to significantly strengthen measures combating unsafe and unhealthy working conditions, in accordance with the International Covenant on Economic, Social and Cultural Rights and relevant ILO conventions (New Zealand)

Zealand);²⁰ 147.118 (Cote d'Ivoire);²¹ 147.121 (Serbia).²²

Accordingly, the ELA and ELR continue to violate labour and trade union rights of workers in the EPZs, including in the following areas:

- Limits imposed on freedom of association

Workers in the EPZ are only able to form Worker Welfare Associations (WWAs), which, unlike trade unions, cannot interact nor affiliate with any labour union or other organization outside the EPZ. Their right to form and join federations of WWAs is also restricted, WWAs can only form a federation within one zone. The Zone Authority holds broad powers to interfere in internal WWA affairs, including power to approve its funds, constitution, power to arrange and oversee elections for WWA leaders, determining legitimacy of a WWA and its capacity to bargain collectively, power to "approve" strike actions (ie power to appoint a conciliator to determine the validity of a strike notice, without which a lawful strike cannot take place). Moreover, under the ELA, the Zone Authority enjoys normative powers – the Authority may, with the approval of the Government, adopt regulations that could further restrain the right of workers and their organizations to carry out legitimate trade union activities without interference. Furthermore, under the ELA the Government enjoys the power to exempt any worker or group of workers from any provision of the Act making the rule of law a discretionary right.

As such, In the garment sector, which represents an overwhelming share of the country's export economy, over 500,000 workers employed in EPZs are still not allowed to form or join unions, leaving them without real power to bargain for better working conditions.

- Inadequate protection against acts of anti-union discrimination

Not only the Zone Authorities have broad powers of control and punishment over workers associated in the WWAs as well as their leaders, but both workers and their representatives are excluded from access to protection and justice in cases they are victims of discrimination based on their activism or affiliation to the WWAs. The ELA and the ELR lack effective anti-union discrimination provisions, adequate remedies and sanctions. Workers do not have recourse to a non-bias authority since they are excluded from access to labour courts. Simultaneously, workers' representatives are criminalized for many forms of legitimate trade union activities – such as talking to workers about joining WWAs during working hours, an activity which is explicitly prohibited under the ELA as "unfair labour practice" and punished with a penal sanction. Dismissal of a worker representative is easy.

²⁰ 147.117 Continue efforts to significantly strengthen measures combating unsafe and unhealthy working conditions, in accordance with the International Covenant on Economic, Social and Cultural Rights and relevant ILO conventions (New Zealand)

²¹ 147.118 Strengthen existing follow-up mechanisms for the protection of women workers against all forms of exploitation, particularly those working in the informal sectors, and require businesses to answer for practices that are harmful to the health, well-being and safety of women workers (Cote d'Ivoire)

²² 147.121 Strengthen the existing national monitoring mechanisms aimed at protection of women workers from all kinds of discrimination, in particular those working in informal sector (Serbia)

With such restrictive laws applying to EPZs, workers are exposed to anti-union dismissals, union busting practices, as well as violent repression of their staged strikes and protests, as is illustrated above.

RECOMMENDATIONS:

The Government of Bangladesh should be called on to:

- Review all the allegations of violence, harassment and intimidation of workers' representatives and carry out the necessary investigations to determine those responsible, punishing the guilty parties and preventing the repetition of any such acts;
- Ensure prompt and impartial registration of trade unions;
- Ensure that labour regulations including the Bangladesh Labour Act, Bangladesh Labour Rules are brought fully into conformity with the international labour standards, including those contained in ILO Conventions Nos. 87 and 98;
- Ensure that workers in Export Processing Zones (EPZs) can exercise their right to organize, by ensuring that the Export Processing Zone Labour Act (ELA) and EPZ Labour Rules (ELR) are brought fully into conformity with the international labour standards, including those contained in ILO Conventions Nos. 87 and 98;
- Ensure independent and impartial investigation of all anti-union discrimination cases, including in Export Processing Zones (EPZs) and take all necessary measures to prevent acts of anti-union discrimination, including by according dissuasive fines and sanctions to the perpetrators
- Ensure promotion of collective bargaining at all levels and sectors.