

**International Labor Organization's Conventions
&
Bangladesh Position and Needed Initiatives**

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Introduction

The focus of the paper has been to highlight the obligations of the Parties to the Conventions, the present status of Bangladesh with regard to the ratification of these conventions, the state of implementation of the obligations that Bangladesh is bound to do and the hindrances behind less than full implementation or non-implementation of the conventions. The paper finds that Bangladesh has already ratified/accepted 7 out of 8 Conventions (Table 1). But implementation of the bindings of the Conventions are not satisfactory. Violations of ILO core conventions, child rights, women's rights, lack of equal opportunity for all. There is serious deficiency in safe workplace environment and workers' rights. The paper concludes with some policy options that Bangladesh need more time to implement all the 8 ILO Conventions. The reason being that Bangladesh still could not implement the major ILO conventions fully to maintain its tariff preferences and market access facility it enjoy in the USA market due to various socio economic conditions and a strange mindset of a section of employers/industry, let alone the full implementation of all 7 ones. So it can be presumed that implementation of all the 8 Conventions would be a real challenge for Bangladesh given the lack of resources, capabilities, inadequate institutional enforcement and especially the mindset of 'ad-hocism'(short-termism) instead of taking of long term perspective.

Table 1: Core Conventions of ILO and Bangladesh Position

Standard	Convention	Ratification
Freedom of association and bargaining	Convention of Freedom Of Association and Protection of the Right to Organize, No 87 (1948)	Yes
	Convention concerning the Application of the Principles of the Right to Organize and to bargain Collectively, No 98 (1949)	Yes
Elimination of Forced or Compulsory Labor	Convention concerning Forced or Compulsory Labor, No29 (1930)	Yes
	Convention Concerning the Abolition of forced Labor, No 105 (1957)	Yes
Elimination of Discrimination	Convention concerning equal remuneration of Men and Women Workers for	Yes

	Work of Equal Value, No 100 (1951)	
	Convention concerning Discrimination in respect of Employment and Occupation, No 111(1958)	Yes
Abolition of Child Labor	Convention Concerning the prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, No 182 (1999)	Yes
	Convention of Minimum Age, No 138	No

1. Convention concerning Freedom of Association and Protection of the Right to Organise (No.87, 1948)

In 1948 the nations of the world promulgated the first international convention on the protection of the freedom of association named as ILO Convention 87 on Freedom of Association and the Protection of Right to Organize. It has 21 articles. The Convention sought to protect the right of workers and employers to form and join organizations of their choice, and ensure their organizational autonomy. Collective bargaining is an essential element of freedom of association. This Convention symbolized a bold step in the ‘struggle for social justice’.

Bangladesh ratified this ILO Convention on June 22, 1972. As such Bangladesh is expected to comply with the convention. Workers used to enjoy trade union rights under Industrial Relations Ordinance (IRO) 1969. The right to form trade unions gradually decreased since 1975 in Bangladesh. This is because successive regime since 1975 curtailed the trade union rights (through changes/formulation of new Rules) which were mandated by IRO1969. For instance Industrial Relations Rules of 1977 (framed under IRO1969) made provisions of 30 percent members to form union, and gave labour directors huge power to cancel registration of unions. As a result these changes, labour unions could not flourish in garments industry. At present there are 139 unions out of the 7000 garment factories. Among these, only 20-25 are active and there are only 5 collective bargaining agreements (Bhuiyan, 2012).

IRO 1977 made provisions of 30 percent members to form union, banned fulltime trade unionist who are not employed at the enterprises to become leaders, and gave labour directorate unrestrained power to cancel registration of unions. All these provisions are the complete violation of ILO convention 87 and 98 which have been ratified by the Bangladesh government (Bhuiyan,

2009). The ILO Committee of Experts on the Application of Convention and recommendation has noted serious discrepancies between labour law of Bangladesh and ILO core conventions ratified by Bangladesh.

A study on Bangladesh garments industry finds that Bangladesh garments industry workers still face a number of problems such as compulsory long working hours, harassment by supervisors and the denial of trade union rights. Many Western organizations and some western countries have taken up these issues (the cause of garments workers) such as National Labour league, Clean Cloth Campaign, United Students against sweatshops and War on Want (Rahman,2011).

International Trade Union Confederation (ITUC), in its recent report on core labour standards in Bangladesh published on the occasion of World Trade Organization's (WTO) review of its trade policies, reveals grave problems with violation of freedom of association, the right to collective bargaining, child labour etc. The report also noted that Bangladesh is rife with anti-union practice by employers including threats, dismissals, legal suit against unionist and intimidation. Labour Act 2006 has made a provision that upon receipt of the application for registration, the labour department sends the list of leaders and members to the employers for verifications. It enables employers to dismiss leaders and threat to workers. The law does not protect unions from interferences from employers (Bhuiyan,)

In sum, it is clear that Bangladesh still need to do a lot more work (in terms of legal reforms , change in mentality and implementation) to fully comply with the ILO convention no. 87. Bangladesh has already passed a bill named 'Bangladesh Labour Amendment Bill, 2013 in Parliament (the Jatiya Sangsad) on July 15, 2013 incorporating some provisions to protect workers' rights including allowing formation of trade unions without informing the factory owners. The new law also includes provisions for formation of a central fund to improve living standards of workers, depositing a 5.0% net profit of companies.(The Financial Express, 16 July,2013).. The new bill, once enacted as a law would help ensure compliance with ILO conventions. In that case, Bangladesh's main priority would be to work unitedly with industry/employers, labour unions and the ILO for proper implementation of the labour Act. However, to fully comply with all the issues of the labour law, a change in owners' mindset to abide by the Labour laws and ILO Conventions seems vital. Strict enforcement and rigorous punishment for violations of labour law provisions are also important. As an LDC country, Bangladesh may ask for a gradual implementation of all the provisions; But Bangladesh need to portray before the key outside stakeholders such as USA and EU about the initiatives Bangladesh have taken so far and the progress Bangladesh made till date with regard to improving the factory conditions, workplace safety/firefighting mechanism and minimum wages. In recognition of this reality and opposition from industrialists, the United States Trade Representative (USTR) had agreed (in TICFA discussion) that Bangladesh could implement labor issues in the industrial sector gradually (Ashan, 2013). In such a scenario, subscribing to binding commitments to ensure

implementation of this Convention would not be so quick and easy for BD i.e. Bangladesh is also not in a position to fully implement the convention provisions.

2. Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (No.98 1949) and Bangladesh Reality

The provisions of Bangladesh Labour law are frequently violated. For example, the garments workers are not mostly provided appointment letters, although they are provided with an identity card. As a result, they cannot bargain with the owners for the lack of proper documents. As a result, the UN core convention 98 (right to organize and collective bargaining) are being frequently violated. Khan (2013) finds that 123 published reports regarding violation of collective bargaining. Sometimes, workers are allowed to form union in limited scale or formation of union by the workers who are in favour of the owners. Under this process of the so called union formation, owners can manipulate the bargaining process and exploit the workers managing a few workers. It is common in Bangladesh that workers who want to form union have to lose their jobs or face threats from owner's side.

There are however contrasting scenarios as well. Trade unions formed in public sector corporations such as in Bangladesh Bank, Titas Gas, Sonali Bank, Sadharan Bima Corporation, BADC often show hindhandedness and misuse their powers for personal benefits. A newspaper report reveals that highhandedness of a section of CBA leaders is found with its viciousness in the public sector banks, particularly in the banking sector regulator (The Financial Express, 04 Nov 2010), At least, seven mid-level and high officials of the central bank including a deputy director of the bank were either physically or verbally abused by the pro-ruling CBAs leaders in the last years. The CBA leaders and their supporters in the public sector give a damn to organizational rules and discipline and interfere in the administrative decisions of the organizations including loan decisions of the banks (The Financial Express, 04 Nov 2010),

Trade Unions are also linked with major political parties such as The Bangladesh JatioSramik League is politically tied to the Awami League, The Bangladesh JatiyoSarmikJote (BJSJ) is politically tied to the Jatiyo Samajtantrik Dal (JSD) and The Bangladesh Jatiyatabadi Sramik Dal (BJSD)is politically tied to the Bangladesh Nationalist Party. In Bangladesh, the nature and role of trade unions vary from sector to sector, industry to industry, and region to region. Collective bargaining on pay and allowances is forbidden in the public sector (Robinson, 1996) as the government determines a single set of uniform pay scales and allowances for all the public sector enterprises (Akkas, 1998; Hoque, 1994; Miyan,1991).

For the sake of discipline and normal operations of the bank and other public sector corporations, the government must not allow strong-arm tactics in the name of trade union activities.

3. Convention concerning Minimum Age for Admission to Employment, No 138 (1973) ILO 138 (Minimum Age Convention).

This is the only ILO core labor convention that Bangladesh did not ratify. The Bangladesh Labour Act (BLA, 2006), prohibits employment of children under 14 years of age, as well as prohibiting hazardous forms of child labour for persons under age 18. However, children who are aged 12 and above may be engaged in “light work” that does not endanger their health, development and education. Economic realities and social context signify that child labour is widely accepted and very common in Bangladesh. According to the current socio economic condition of Bangladesh, a lion share of total population is still poor. As such children are compelled to work to ensure their daily meals. Even, many families rely on the income generation by their children for survival. Furthermore, employers often prefer to employ children because they are cheaper and considered to be more compliant and obedient than adults.

Although Bangladesh labour law approves of so called light work for children; incidences and experiences shows that children in Bangladesh are working in the fields of risky jobs such as brick fields, iron factory, and tannery industry.

The Ministry of Labour and Employment has recently adopted a National Child Labour Elimination Policy 2010, which provides a framework to eradicate all forms of child labour by 2015 (UNICEF, 2010). In the respect of payment of wage, the law defines who is responsible for payment of wages: employer/owner; chief executive officer (CEO); manager/person assigned responsible by the company; and the contractor, in case of worker appointed by the contractor. But, this provision of Bangladesh labour laws is often violated. It is often seen that garments factories and other non-government factories are suddenly closed without paying any notice and the wages of labour.

Table 2: ILO conventions and Violation of Bangladesh

Convention No.	Conventions	No. of Incidence of Violation
87	Freedom of association and Right to organise	82
98	Right to organise and collective bargaining	123
29	Forced labour	26
105	Abolition of forced labour	19
100	Equal remuneration	12
182	Worst forms of child labour	25

Source: The Daily Prothom Alo, January –December, 2012 in Khan, 2013

The incidents of violations of ILO core labour standards in Bangladesh suggests that there are also weaknesses in enforcement of ILO conventions and related labour laws that are in force in Bangladesh. In Particular, most employers still lack intention to comply with key labor standards. In such a scenario, Bangladesh probably need to work more with the industry and other stakeholders to ensure compliance with labour issues. Continuous dialogue with foreign counterparts such as EU and US, apprising them about the initiatives taken to bolster compliance and some tangible outcome of the taken initiatives are absolutely necessary to maintain/ask for tariff preferences. Further, considering the socio economic condition and LDC status, some derogations from the compulsions of ILO conventions may be needed; So signing all the ILO conventions and their full implementation to get GSP+ seems to be a tough condition for Bangladesh.

4. Convention concerning Forced or Compulsory Labor, No 29 (1930)

The ILO definition of forced labor comprises two basic elements: the work or service is exacted under the menace of a penalty, and it is undertaken involuntarily. However, the forced labor definition does not include military work, civil obligation, service of any person following the conviction of court, any work or service exacted in cases of emergency such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance and minor communal services for community interest. According to the Article 4 of ILO Forced Labor Convention, private individual, associations and companies cannot force labor. There will be no concession for the companies or individuals that are forcing labor (Article 5). The use of forced labor depends on the highest civil authority of the territory. According to Article 9 and 10, if any authority has the opportunity to force labor to do work, it must satisfy the work to be necessary and of direct interest to the community, the work to be done not burden for the forced labor, the work to be safe for their residence. A person's tenure as a forced labor shall not be more than 60 days in any one period of twelve months including the time spent in going to and from the place of work (Article 12) . Forced or compulsory labor shall not be used for work underground in mines. Article 18 states that forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Article 25 makes the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

Bangladesh position: Most of the garments factories do not have standard working hours. Forced labour is common in Bangladesh especially in the RMG sector. Moreover, the factory management

rarely informs workers in advance if they have overtime; it is only announced at the end of the working day (Ahamed, 2013). However, there are differences of opinion regarding forced labor. If by “compulsory labour” any indication is made to extra hours of work at the factories, it needs to be recorded that the workers are paid overtime allowances as per the existing wage rate. The press and electronic media enjoy freedom in Bangladesh. Development partner countries, civil society organisations, global opinion leaders have time and again praised Bangladesh for its democratic credentials. With so many print and electronic media, it is impractical to believe that incidences of irregularities such as compulsory labour would go unreported.

The Bangladesh Labor Act 2006 [XLII of 2006] (BLA) is fairly comprehensive and progressive. This labor act of 2006 prohibits forced labour (Hossain, Ahmed and Akter, 2010). The law is a consolidation and updating of the 25 separate acts. The BLA aligns the labor law system with the ILO core conventions. On the ILO core conventions, Bangladesh has ratified 7 out of 8 International Labor Conventions (ILCs). The only core convention not ratified by Bangladesh is ILC 138 (Minimum Age Convention). Taking the existing position/commitment of Bangladesh to implement ILO core conventions it appears that Bangladesh will not have much concern in undertaking the compulsions of this Convention with a view to gaining from EU GSP+. The only area where Bangladesh need more attention is to enforce labour law provisions especially motivate/compel the owners/employers to respect the provisions of the law of the land.

5. Convention Concerning the Abolition of forced Labor, No 105 (1957)

This Convention requires Members of the International Labour Organisation (who ratifies this Convention) to suppress and not to make use of any form of forced or compulsory labour--

- (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) as a method of mobilising and using labour for purposes of economic development;
- (c) as a means of labour discipline;
- (d) as a punishment for having participated in strikes;
- (e) as a means of racial, social, national or religious discrimination.

As Bangladesh ratified this Convention, Bangladesh has the obligation to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention (Article 2). Bangladesh ratified this Convention on 22 June, 1972 and it is in force.

With regard to children in forced labour, the Labour Act of 2006 prohibits debt bondage but only in respect of children 14 years old. In February 2012, the parliament passed a comprehensive anti trafficking law, the Human Trafficking Deterrence and Suppression Act. The Act establishes penalties of 12 years' imprisonment and fines for trafficking with the purpose of forced labour and imprisonment of at least five years. Bangladeshi law provisions impose penalties involving compulsory labour as a punishment for breaches of labour discipline and for having participated in strikes. These provisions do not comply with ILO Convention No 105 (ITUC Report, 2012). The above legal provisions provide an indication that Bangladesh values the effort to abolish forced labor. As such Bangladesh need not have concerns with regard to this Convention. What is more important is to nourish a culture of enforcement and held the owners/employers responsible for forced labour.

6. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No 100 (1951)

Article 1 of this ILO convention of Equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex. Each member shall ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. This principle is applicable by means of national laws or regulations; legally established or recognized machinery for wage determination; collective agreements between employers and workers; or a combination of these various means. Differential rates between workers as determined by such objective appraisal, in the work to be performed, shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value. Each member shall co-operate as appropriate with the employers' and workers' organizations concerned for the purpose of giving effect to the provisions of this Convention. According to Article 6, this convention shall be binding only upon those Members of the International Labor Organization whose ratifications have been registered with the Director-General. This Convention comes into force for any Member twelve months after the date on which its ratification has been registered.

Bangladesh ratified this convention on 28 January 1998. 2008 ILO and the 2007 Bangladesh Bureau of Statistics study find a wide and persistent gender pay gap.

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) CEACR also notes the Government's indication that it faces difficulties in looking into the wage gap in small enterprises spread over the countryside. The Bangladesh Employers' Federation states that it will be very difficult to minimize the wage gaps in the unorganized informal economy until the economic condition of the country improves. The Committee recalls that section 345 of the Bangladesh Labour Act, 2006 provides that in determining wages or fixing minimum rates of wages, the principle of equal wages for male and female workers for work of "equal nature or equal value" shall be followed and no discrimination shall be made in this respect on the ground

of sex. (<http://www.ilo.org/dyn/normlex/en/f?p>. But gender-based inequalities continued to prevail in the labour market in Bangladesh (ILO, 2009). The 2007 wage survey carried out by BBS among non-firm production workers found that the average daily income of women amounted to 69.7 percent of that of men.

It is thus clear that Bangladesh has enacted legal regime to conform to the Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No 100 (1951). What we are lacking is the implementation of the legal provisions of the Labour Act. Bangladesh therefore is in a position to take obligations for implementation of the Convention.

7. Convention, concerning the prohibition and Immediate Action for the elimination of the worst forms of Child Labour (No. 182), 1999

This Convention requires Each Member which ratifies this Convention to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. According to this Convention, the worst forms of child labour comprise:

- (a) all forms of slavery /practices similar to slavery, such as the sale and trafficking of children, debt bondage and forced or compulsory labour, including forced recruitment of children for use in armed conflict.
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. (Article 3)

Each member shall design and implement, in consultation with relevant government institutions and employers' and workers' organizations, programmes of action to eliminate as a priority the worst forms of child labour (Article 6).

Bangladesh scenario: Children in Bangladesh are engaged in the worst forms of child labor, primarily in dangerous activities in agriculture. Children also work in dangerous work that includes welding, carpentry, rickshaw pulling and automobile repair. . Girls often work as domestic servants in private households in Bangladesh in exploitative conditions and are vulnerable to abuse, including sexual abuse. Children work in poultry farming and in drying fish, which exposes them to harmful chemicals, dangerous machines that can cut off their fingers, and long hours of work in the hot sun. (Department of Labour Report, US, 2011).

Bangladesh passed the Human Trafficking Deterrence and Suppression Act 2012 which makes trafficking (including labor trafficking) a capital offense. It has developed and fully funded a Child Labor Monitoring Information System to manage child labor related. The Government of

Bangladesh participated in a \$10 million project funded by the Government of the Netherlands. The aim of this project is to prevent and eliminate the worst forms of child labor in the Dhaka informal economy. The Government also participated in a project funded by the European Commission that provides children (of legal working age) working in hazardous jobs with technical and vocational skills training to transition them into safer work opportunities (US Department of Labour Report, 2011, p.47). In sum, it can be argued that Bangladesh is fully committed to eliminate the worst forms of child Labour.

8. Convention concerning Discrimination in Respect of Employment and Occupation, No 111 (1958)

This is an ILO Convention adopted by the International Labour Conference in 1958, is an effort to promote the principle of equal rights. This convention defines discrimination as any distinction, exclusion, or preference based on race, color, sex, religion, political opinion, national extraction, or social origin that impairs equal access to vocational training, equal access to employment and to certain occupations, or equal terms and conditions of employment.

According to Article 2, Each Member of this Convention undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof. Article 3 states that Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice to seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy, and to pursue educational program to enact such legislation. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discriminatory. Any Member may be able to consult it with the respective employers and workers organization to determine the requirements of special measures.

Bangladesh scenario: Equal opportunity for all citizens in respect of employment or office in the service of the republic irrespective of religion, race, caste, sex or place of birth has been clearly proclaimed in the Bangladesh Constitution. Bangladesh's law provisions relating to protection against discrimination mainly are focused on wage and sex. Employers are obliged to ensure equal wages for male and female workers for work of equal nature or value, and no discrimination should be made on the ground of sex (Bangladesh Labor Act 2006, Section 345). The positive aspect of the current law is that in line with the ILO provision, it mentions the principle of wage setting is equal pay for equal value of work. However, the current provision lacks specific provisions on discrimination related to workplace facilities and treatment; only the sex of workers has been considered as discrimination ground; other grounds of discrimination such as race, caste, sex or place of birth ethnicity, and age is not included although discrimination made on those grounds is prohibited in the Constitution (Article 28, Bangladesh Constitution) (Hossain, 2013. P.6). As such,

Bangladesh Labour law needs to be amended to incorporate all these grounds on which employers must not discriminate.

Some of our laws are also obstacles to according rights and equal opportunities to women. In particular personal laws of Bangladesh i.e. laws of marriage, inheritance and property are the main deterrents to creation of equal opportunities for women (Choudhury, 2013).

Conclusions and Policy Options

From the above discussions on different International Conventions and Bangladesh position, it becomes evident that Bangladesh has acceded/ratified most of the Conventions except Convention of Minimum Age. Bangladesh also has constitutional provisions and enacted necessary laws/regulations (as stated above) to comply with and conform to its International Obligations. What is lacking in Bangladesh is the enforcement of the legal provisions of various acts and rules. Our weaknesses lie in our enforcement. Due to non-compliance of important issues such as violation of labour rights, not having adequate fire fighting measures in factory, and labour abuses in the garment and shrimp industries (Jahangir, 2013), Bangladesh could not portray to the outside world about the progress it has done so far in a tangible manner in addressing workers rights issues especially to the largest export destination, the US. The violation of labour rights and workplace safety, the murder of a labor rights activist (Ahmed, 2013) and frequent fire incidents including fire at Tazrin and losses of more than 1100 workers in Rana Plaza incident seems to have reinforced the US perception that Bangladesh could not make much progress in ensuring labor rights and workplace safety although the US was questioning (on a petition from the AFL-CIO (American Federation of Labour and Congress of Industrial Organizations) the Bangladesh's eligibility in enjoying the GSP on such non compliance issues since 2007. All these violations and the shortcomings of Bangladesh in labour standards helped the US to suspend GSP facilities for Bangladesh on 27 June May, 2013.

[In this regard, it is notable that in the US market Bangladesh is competitive than India in exporting Bangladesh's top 3 export items under HS 620342, 620462 and 620520 (menss, boys trousers and shorts, of cotton, not knit) as shown in the following table.

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