The Implementation of Laws Relating to Trade Union in Different Industries and Establishments: A Case Study of Bangladesh

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Abstract

To build this human civilization labors have a great contribution but all over the world they are most neglected section. History shows us that once they had a little right but as the state philosophy has been changed into 'welfare state', the world has recognized significant rights for them, among which trade union right is very remarkable and through this they ensure their real rights and have a peaceful life. After the independence of Bangladesh we see the creation of some trade unions. But as a third world country Bangladesh inherits some corruptions. And this corruption has contaminated trade union also for which the labors can't ensure their rights through it. In this article the authors tried to show the reasons for the failure to fulfill the objectives of trade union and accordingly some recommendations have been made. The authors believe that, failure of trade unions to fulfill their objectives should be taken seriously and necessary steps should be taken urgently so that the labors can enjoy their rights properly and effectively.

Keywords: Trade Union, Bangladesh Labour Code

Introduction

To form trade union by the labors is a constitutional right according to the Constitution of the Peoples Republic of Bangladesh under the ‘right to association’ in article 38. From the last 36 years of the independence of Bangladesh we have many trade unions for the different industries and establishments. Before the enactment of Bangladesh Labor Code, 2006 the Industrial Relations Ordinance, 1969 used to deal with the trade union related laws. But by the very section 353 of the Bangladesh Labor Code, 2006 all the previous laws relating to labors have been repealed. Accordingly the Industrial Relations Ordinance, 1969 is also repealed. But most of the laws relating to trade union incorporated in Bangladesh Labor Code, 2006 have been taken from Industrial Relations Ordinance, 1969. From the beginning of the trade union in Bangladesh it is open secret that the trade union leaders are mostly corrupted and the main objectives of the trade union have been frustrated tremendously. Recently this picture has been so highlighted because the present government has taken some innovative activities to eradicate corruptions from Bangladesh as well as from the trade unions. The main objective of trade union is to do welfare to the ordinary labors through the Collective Bargaining Agent. But why and how it has failed to fulfill its main objective and how it can be

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solved by, is a great concern today because labors build this civilization at the cost of their sweat and blood, so they can not be deprived of any more.

**History of Trade Union in the World**

Trade union is the result of various revolutions of the proletariat group of people throughout the whole world. The necessity of trade union was first felt by this class of people in England between the 14th and 15th century when the capitalist production system was initiated there. Their first movement which was known as *Ludit* took place between the second half of the 18th century and beginning of the 19th century.

Their movements were scattered or some individual protests were made for snatching their rights from bureaucrats. Their second and third movement took place in the city named Leo of Paris on 1831 and 1834.

In the middle of the 18th Century the Proletariat people became one of the major sources of political power so the bureaucrat class had to give them recognition. Between the 40th and 60th decades of the 19th century the labors of England were getting very low wages and they had to work 13 to 16 hours per day. They did not get any holiday with wages not even any weekly holiday. They did not have any right to form any organization for their own and to call strike for any matter. If they called strike or refused to do any work then the loss occurred by the strike or refusal were compensated from their wages. It was very rare to have an agreement between the labor and employers regarding their wage and other facilities. In this vulnerable situation they felt it strongly that their protest should be a combined protest to change their own condition. They established some temporary secret labor organizations but finally they could understand that to solve their problems they will need some permanent solutions. At that time the farmers also joined with them.

In 1824 when the law regarding trade union was passed, it inspired the labors to establish trade unions. Subsequently these trade unions took part in the economic struggles as well as presented various political claims. Their main claim was to reduce the working hour from 13 to 8 hours. On 1st May 1886 Strike was called and various processions were made by the labors in Chicago in USA to get their rights which were prevented by the police. For this movement death penalty was given to a group of labors and others were convicted for long term imprisonment. From that day 1st May has got the worldwide recognition of International Labor Day.

In the beginning of 20th Century the number of labors throughout the whole world was increased and among them only the 32% were members of trade union. Trade union was developed before the development of political parties of labors in several Western European countries like France, Germany and UK and in USA too. But in Russia trade unions were developed after the establishment of Marxist Political parties. By this way the number of trade union is increasing day by day.
Trade Union in Bangladesh

The historical background of Bangladesh can be divided into four parts.

Pre-First World War Period

According to V.V. Giri (1959), before 1719 the labors of Indian sub-continent used to solve their problems by submitting it to the panchayat or guilds. At that time some organizations like trade unions were first established among the barbers and laundry men. When various laws were passed in Great Britain, France, Austria, Italy and Netherlands regarding the trade unions, the concept of trade union was also introduced and got recognition in Bangladesh at that time.

In 1853 the first textile industry in Indian-sub-continent was established in Bombay. After that various industries were established. In 1875 and 1884 two labor's conference were held in Mumbai. The first conference was headed by Sorabji Shapurgi and the second one was by M.M. Lokhande. In these two conferences for the first time in India the service rules of the labors and the ways how to improve their living standards were discussed. In 1877 the labors of a textile mill of Nagpur first called strike for their wages. In 1890 the first labor's organization named Bombay Mill Hand Association was established. After all these incidents the First World War created a favorable condition for establishing trade unions.

Post First World War- Up to Partition of the Sub-Continent

After First World War when the International Labor Organization was established a new horizon for forming trade unions was open for the labors of the whole world. In 1918 All India Trade Union Congress was formed. ILO was the main inspiration behind all these activities.

In 1926 The Trade Union Act was enacted for giving recognitions to trade unions in this Indian Sub-continent. Mr. M.N. Joshi had a great contribution behind passing this law. In 1929 the Trade Dispute Act was passed. All these activities and movements of labors were stopped during the 2nd World War period.

After the Partition of Subcontinent

After the partition of the Indian Sub-Continent the responsibility of establishing Trade Unions was given on various leaders namely: Dr. M.A Malek, Muhammad Ismail, Foyez Ahmed, Nepal Nug, Mujaffar Ahmed and Dinen Shen. All Pakistan Trade Union was formed in 28th October of 1949. It was followed by All Pakistan Confederation of Labor which was formed in 1951. By this way the Labors of Pakistan were united. But 1958 General Ayub Khan passed a law against the interest of the labors and in favor of the industrialists. Afterwards to amend and consolidate the laws relating Trade unions,
regulations of the relations between employer and workmen and to settle the disputes, the Industrial Relations Ordinance, 1969 was passed.

**After the Independence of Bangladesh**

After the independence of Bangladesh another Labor’s Federation was formed by *Md. Shahjahan and Ruhul Amin* which was known as National labor’s Federation. It started to work as an organization of *Jasod*. In 1975 when there were some political changes in Bangladesh the Sromik Leeg was divided into two groups—Malek and Mizan Group. When Ziaur Rahman Formed B.N.P, another labor union was formed named ‘Jatiotabadi Shromik Dal’. When President Ershad came into power his political party formed Jatio Shromik Party. We can say in short that after the independence, hundreds of trade unions started to be formed or established by the different political parties and different types of labors.

**Definition of Trade Union**

A trade union or labor union is an organization of workers. The trade union, through its leadership, bargains with the employer on behalf of union members (rank and file members) and negotiates labor contracts with employers. This may include the negotiation of wages, work rules, complaint procedures, rules governing hiring, firing and promotion of workers, benefits, workplace safety and policies. The agreements negotiated by the union leaders are binding on the rank and file members and the employer and in some cases on other non-member workers.

According to Steward’s Dictionary workers organized into a voluntary association, or union, to further their mutual interests with respect to wages, hours, working conditions and other matters of interest to the workers is a trade union.

A Trade Union is a continuous association for wage earners for the purpose of maintaining or improving the conditions of their working lives.

**Objectives of Trade Union**

Over the last three hundred years, trade unions have developed into a number of forms, influenced by differing political and economic regimes. The immediate objectives and activities of trade unions vary, but may include:

- **Provision of Benefits to Members**: Early trade unions, like Friendly Societies, often provided a range of benefits to insure members against unemployment, ill health, old age and funeral expenses. In many developed countries, these functions have been assumed by the state; however, the provision of professional training, legal advice and representation for members is still an important benefit of trade union membership.
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- **Works as an Executor of Mutual Assurance and Welfare:** Trade Unions usually do the insurance of the labors or take lots of initiatives for the welfare of the family members of the labors or establish co-operative societies. So it works as an executor of mutual assurance and welfare.

- **Collective Bargaining:** Where trade unions are able to operate openly and are recognized by employers, they may negotiate with employers over wages and working conditions.

- **Solve Industrial Dispute:** Trade unions try to solve the disputes between the labors and employers through negotiations and maintain a healthy relations between them. Any industrial Dispute can only be raised by collective bargaining agent or employers in the manner prescribed and not otherwise.

- **Legal Institution:** If the collective bargaining fails then the trade union can take legal actions through the Labor court and can follow other legal provisions of the Labor Code to get their rights. In many countries, a union may acquire the status of a "juristic person" (an artificial legal entity), with a mandate to negotiate with employers for the workers it represents.

- **Provide security to the labors:** It gives security to the labors regarding their jobs. They give the assurance that if any labor faces any problem they will raise the voice in favor of him.

- **Create Awareness:** Trade unions create awareness among the labors regarding their rights, facilities and obligations.

- **Industrial Action:** The inability of the parties to reach an agreement may lead to industrial action, culminating in either Strike action or management lockout or resistance to lockouts or binding arbitration in furtherance of particular goals.

- **Political Activity:** Trade unions may promote legislation favorable to the interests of their members or workers as a whole. To this end they may pursue campaigns, undertake lobbying, or financially support individual candidates or parties (such as the Labor Party in Britain) for public office.

According to Sidney and Beatrice Webb, the fundamental objectives of trade union are the deliberate regulation of the conditions of employment in such a way as toward and off from the mutual working procedures the evil effect of industrial competition.

**Law Relating to Trade Union under Bangladesh Labor Code, 2006**

The reflection of the fundamental right regarding the formation of trade union which has been mentioned previously can be found in the present Bangladesh Labor Code 2006 that workers without distinction whatsoever shall have the right to establish and subject only to the rules of the organization concerned to join associations of their own choosing primarily for the purpose of regulating the relations between workers and employers or workers and workers. Similar rights are also given to the employers in the following section. From the above provisions we can understand that the main objective of
establishing any trade union is to maintain a good relation between workers and workers and workers and employers and employers and employers. But this right given by the Act includes the right of workmen to form trade unions for lawful purpose. The purpose of an association is an integral part of the right and if the purpose is restricted the right is inevitably restricted. The word 'form' is not used for the initial commencement of the association but also to the continuance of that association.

It has been also mentioned in the Bangladesh Labor Code 2006 that all the trade unions should be registered if they want to initiate any function. Before getting the registrations the trade unions have to satisfy some requirements and if the requirements mentioned in sec 179 are not fulfilled then the Registrar can raise objection under sec 182(2) and can refuse the registration under sec 182(4). Penalties can be imposed to any person who instigate or entices others to take part in any activities of unregistered trade union or collect moneys as subscription. Dual membership of trade unions is also punishable offence.

To implement these objectives various provisions are also mentioned into the chapter XIX. To prevent the misappropriation of provident fund or trade union fund punishment is provided in sec 298. This says that the person liable for misappropriation will be punished with three years imprisonment and fine. But if any officer or employers or workers misappropriate it or use the fund for their own purpose, the punishment will be one year imprisonment.

Some privileges and immunities are given to registered trade union and its officers under sec 197 sec 198 the Code of 2006 from imposing any penalty and filing any Civil Suit.

Who will work as collective Bargaining Agent or how their election can be held are provided in sec 202.

**The Practice of Trade Union Law in Bangladesh: How much it is effective**

Though it is a fundamental right of every labor to form and join any trade union but still today most of the factories or industries of Bangladesh do not have any trade union as the employers/owners do not allow the labors to form it within their premises. It is the direct violation of fundamental right of labors to form any associations.

In fact, the trade unions of Bangladesh are useless for their objectives. Because the leaders of the trade unions are so much corrupted that, it is impossible for the trade union leaders to do some welfare for the general labors. Some of the present practice of trade unions is as follows:

1. Almost all the CBA leaders have an open secret understanding with the owners of the establishments which leads them to the uninterrupted corruption and irregularity.
2. CBA leaders seldom see the interests of the labors.
3. The monthly subscription given by the labors are not used for the labor welfare. It is just used for the personal purpose of the leaders of the trade unions.

4. The trade union leaders once become related with the politics of Bangladesh which lead them political empowerment and nobody dares to talk against them.

5. For the pressures of the trade union leaders the workers are working hard but they are not getting remuneration accordingly.

Reasons of the Mal-Practice or Corruption in Trade Unions

The following are the reasons of the failure of the Trade Unions of Bangladesh:

- **The Illiteracy of the Labors:** It is true that the labors of Bangladesh are mostly illiterate. Illiteracy is like the darkness. It makes them insecure and weak to fight against the corruption and ill practice. So, for the slit of the illiteracy of the labors the trade union leaders become corrupted.

- **The Ignorance of the Trade Union Laws of the Labors:** Most of the labors of Bangladesh do not know that especially for them there is a law in Bangladesh named Bangladesh Labor Code, 2006. So, it is almost impossible to be concerned about the trade union laws for them. For the ignorance of trade union laws they can not fight against their violation of rights.

- **Improper Application of Section 187 of the Bangladesh Labor Code, 2006:** Section 187 of the Bangladesh Labor Code, 2006 provides “No president, General Secretary, or Treasurer of any trade union shall be transferred from one district to another without his consent”. This section is the great weapon for the corruption of the trade union leaders. Because, by using this provision trade union leaders have the opportunity to stay in a same establishment and to be connected with the local politics. In course of time they become powerful having with the hands with local political leaders. So, during that time they do many things which are the violations of the interest of labor. It is to mention that before the enactment of the present Bangladesh Labor Code, 2006 there were many laws available regarding the labors of Bangladesh which have been repealed by the Bangladesh Labor Code, 2006. Section 353 of the Bangladesh Labor Code has mentioned the names of repealed laws. Among them Industrial Relations Ordinance, 1969 dealt with the trade union matters. But the court itself has some verdict before in favor of not transferring of trade union leaders. In *Abdul Mannan Talukdar vs. Bangladesh House Building Finance Corporation 42 DLR (AD) (1990) 104* the Appellate Division of the Supreme Court of Bangladesh remarked that “main object of the section 47B of the IRO is to give protection to a trade union leader so that for his trade union activities he may not be harassed by the employer by way of transfer without his consent”.

- **The Blackmailing of the CBA Leaders by Giving Jobs to the Labors:** In the third world countries most of the labors are so poor even they cannot live their
life hand to mouth. So, to get a job in an industry or an establishment as a worker is a golden deer sometimes. CBA leaders take this opportunity. They give the job in an industry requesting the owners because they have an influence to the owners. Usually, the labor get the job by the CBA never dares to speak against the leaders though he does many cradicate violation of trade union right of the labors,

- **The Bad Intentions of the Owners**: The owners always want the labors to work hard and gain profit. So, they use the trade union leaders as a weapon. When labors get heavy work load but do not get the expected remunerations, they usually go to the trade union’s leaders for the assurance of justice. That time the CBA leaders never speak on behalf of the labors because they have already taken the bribe from the owners not to fight for the labors right.

- The conspired understanding of the CBA leaders and the owners.

- **The Political Relation of the Trade Union Leaders**: Almost all the trade union leaders are related with the local political leaders. So, they feel powerful always and no labor even the owners ever dare to speak against them.

- **Lockage of Proper Monitoring by the Labor Inspectors and their Corruption**: Bangladesh Labor Code provides that the inspectors will have the right to inspect the trade union activities, but inspectors seldom go to do it. Even if they go, the trade union leaders bribe them so that they never speak against the irregularities of the trade union.

- **The Registration Corruption**: For doing registration of any trade union corruptions are done by giving bribes to the Registrar to fulfill the lacking of the requirements of registration. According to the sec 182 the Present Bangladesh Labor Code 2006 Registrar has the power only to do registration if the trade union has complied with all the requirements and if there is any deficiency he can also give objection. But in the case of Sultan Ahmed Talukder and others Vs. Registrar of Trade Unions and others 9 BLC (AD) 2004 209 it was found that the Registrar of Trade Unions issued a certificate to a particular committee as genuine committee which was formed without election and declared another committee to be an illegal one which he was not authorized to do. But he did it to do some favor to a group of workers. It was held by the court as unlawful. By these sorts of ways corruptions are done.

- **The Economic or Financial Conditions of the Trade Unions are Very Poor**: The trade union’s funds are raised by the subscription fees of the labors. But most of them are reluctant to give that, as their own financial condition are not very satisfactory one. This opportunity is exploited by the owners to entice the leaders to work for them by providing various facilities only to the leaders.

- **Interference of Outsiders in the Trade Union’s Internal Matters**: It is very common phenomena that the labors who are actually member of any particular
trade union interfere into the internal matter of that trade union. They encourage the workers to go on strike for silly matters. Because if any punishment is given for that he will not suffer as he is not member of that trade union.

- Lack of experienced leaders among the labors is another reason of mal practice and corruption.

**Recommendations**

- Healthy democracy should be established first in our country so that the labors can enjoy their Fundamental rights to form any trade union. The mentality of the owners of the industrial establishments should be changed. They think that if any trade union is established within their factory or industrial premise then it will create lots of problem. Rather it should be felt by the employers that if the labors get the security of their jobs and can fulfill their demands through trade unions then their productivity will be increased.

- The section 187 of the Bangladesh Labor Code, 2006 should be amended. The law can be made to the effect that if any trade union leader proved as corrupted or many allegations are made against him for corruption he can be suspended for a particular period of time or he can be transferred to any other backward district as a punishment.

- The law relating to trade union should be amended with the empowerment of general labors. The legal provision should be added to the present Bangladesh Labor Code for the general welfare of the labors. Suppose the trade union likes to help the family of the labors who face any fatal problem that can be done through co-operative society to be created for this purpose. If the trade union leaders become too much corrupted any labor can make secret allegation to inspector.

- The politics of the trade union leaders should be forbidden for certain periods. The trade unions should not have any relations with any political party as there will always be an influence of the political ideology over the labors of trade unions and they start to work to fulfill the political goal rather than to work for the benefit of the labors.

1. The labors should be given a chance to have proper training about their rights and the corruptions related matters.

2. The trade union leader’s corruptions should be dealt with seriously. If one incident of corruption is properly taken care of then a sense of awareness will be created among all other leaders and workers.

3. The inspector should inspect the establishments periodically and they should not be influenced. If the inspectors accept any bribe directly and indirectly then they also can be punished seriously. A special provision should be added in the statute relating to this.
4. The owners should not be connected with the trade union leaders.

5. Government and government officials should stop interfering in any trade union’s internal matter.

6. Corruption in registration should be prevented by making the whole process of registration as a transparent one and by mentioning the powers and functions of the Registrar. IRO 1969 section 13 dealt with all these things. But in the present labor Code the powers and functions of registrar of any trade union is not clarified. So there is ample scope to misuse it.

7. The leadership of trade unions should be given to qualified, experienced, dedicated and committed leaders who will work for the labors but not for their own gain.

8. The Trade Unions should be held liable for the damages or loss caused by any leaders or any individual worker who has done it with malafide intention. By this way the corruption and malpractice of the labor leaders can be stopped. Because if other workers are held liable for any particular person’s work then a pressure will be created by all other members of trade unions on that particular leader or labor and here accountability can be ensured. It was held by the House of Lords in the Taff Vale Railway Co. v. Amalgamated Society of Railway Servants 1901 AC 426 that if a union is capable of owning property, and capable of inflicting harm on others, then it is liable in tort or the damage it causes. The union should be held liable for damages resulting from actions by its officials. This was an unprecedented decision given by the House of Lords for the first time to stop the malpractice of the labors.

9. It was held in Karnaphuly paper Mills Sramik Union vs. Registrar Trade Union 42 DLR that if there is no remedy for the grievance of the plaintiff in the Industrial Relations Ordinance 1969 then the Civil Court will have the Jurisdiction to try the matter. Though the Industrial Relations Ordinance 1969 is now repealed but the similar provisions can be followed regarding the present Bangladesh Labor Code 2006 for preventing the corruption.

10. Penalties provided for dual membership in trade unions and activities of unregistered trade unions are only six month and two thousand taka fine should be increased as they not sufficient for these offences.

11. Finally and most important all the leaders and owners should change the evil mentality.

Conclusions

It is true that Bangladesh is a country of abuse and non-implementation of most of the laws. Regarding the trade union issues Bangladesh indeed has some good legal provisions which are incorporated in Bangladesh labor Code, 2006. But in fact we practice it in a bad way and sometimes we avoid it. It’s the main reason for which
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objectives of trade union has failed mostly. If these recommendations which have been pointed out above are followed in a strict way, it can be assured that trade union in Bangladesh will be able to fulfill their real objectives, indeed.

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