Methodology for SDG indicator 8.8.2 on labour rights

Table 1: Evaluation Criteria

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| **SL** | **Evaluation Criteria** | **Responsibility** | **Remarks** |
| 00 | Establishment of a Commission of Inquiry under Article 26 of the ILO Constitution | MoLE |  |
| **Ia. Fundamental civil liberties in law** | | |  |
| 01 | Arrest, detention, imprisonment, charging and fining of trade unionists in relation to their trade union activities | MoLE. DoL |  |
| 02 | Infringements of trade unionists' basic freedoms | MoLE. DoL | According to article 38 of the Constitution of Peoples’ Republic of Bangladesh, every citizen shall have the right to form associations or unions.  According to section 176(a) of BLA, 2006, all workers have the right to form a trade union and to join a trade union of their choice. |
| 03 | Infringements of trade unions' and trade unionists' right to protection of their premises and property | MoLE. DoL | According to article 38 of the Constitution of Peoples’ Republic of Bangladesh, no property shall be compulsorily acquired, nationalised or requisitioned.  According to article 43 of the Constitution of Peoples’ Republic of Bangladesh, every citizen shall be secured in his premises against entry, search and seizure |
| 04 | Excessive prohibitions/restrictions on trade union rights in the event of state of emergency | MoLE. DoL | According to article 141B of the Constitution of Peoples’ Republic of Bangladesh, article for freedom of association will be suspended during emergencies. |
| 05 | Lack of guarantee of due process and/or justice re violations nos. 1-4 | MoLE. DoL | N/A |
| **Ib. Fundamental civil liberties in practice** | | |  |
| 06 | Killing or disappearance of trade unionists in relation to their trade union activities | DoL |  |
| 07 | Committed against trade union officials re violation no. 6 | DoL |  |
| 08 | Lack of guarantee of due process and/or justice re violation no.6 | DoL |  |
| 09 | Other violent actions against trade unionists in relation to their trade union activities | DoL |  |
| 10 | Committed against trade union officials re violation no.9 | DoL |  |
| 11 | Lack of guarantee of due process and/or justice re violation no.9 | DoL |  |
| 12 | Arrest, detention, imprisonment, charging and fining of trade unionists in relation to their trade union activities | DoL |  |
| 13 | Committed against trade union officials re violation no.12 | DoL |  |
| 14 | Lack of guarantee of due process and/or justice re violation no.12 | DoL |  |
| 15 | Infringements of trade unionists' basic freedoms | DoL |  |
| 16 | Committed against trade union officials re violation no.15 | DoL |  |
| 17 | Lack of guarantee of due process and/or justice re violation no.15 | DoL |  |
| 18 | Attacks against trade unions' and trade unionists' premises and property | DoL |  |
| 19 | Committed against trade union officials re violation no.1 | DoL |  |
| 20 | Lack of guarantee of due process and/or justice re violation no.18 | DoL |  |
| 21 | Excessive prohibitions/restrictions on trade union rights in the event of state of emergency | DoL |  |
| 22 | Lack of guarantee of due process and/or justice re violation no.21 | DoL |  |
| **IIa. Right of workers to establish and join organizations in law** | | |  |
| 23 | General prohibition of the right to establish and join organizations | MoLE. DoL | According to section 176(a) of BLA, 2006, all workers have the right to form a trade union and to join a trade union of their choice. |
| 24 | Exclusion of workers from the right to establish and join organizations | MoLE. DoL | According to section 175 of BLA, 2006, security staffs, fire-fighting staffs and confidential assistants are excluded from the right to establish and join organization. |
| 25 | Previous authorization requirements | MoLE. DoL | N/A |
| 26 | Restrictions on the freedom of choice of trade union structure and composition | MoLE. DoL | According to section 176(c) of BLA, 2006, trade unions of workers shall have the right to form and join federations and any such union or federation, shall have the right to affiliate with any international organisation or confederation of organizations of workers. |
| 27 | Imposed trade union unity | MoLE. DoL | According to section 176(c) of BLA, 2006, trade unions of workers shall have the right to form and join federations and any such union or federation shall have the right to affiliate with any international organisation or confederation of organizations of workers |
| 28 | Dissolution/suspension of legally functioning organizations | MoLE. DoL | N/A |
| 29 | Provisions in law allowing for anti -union discriminatory measures in relation to hiring, during employment (e.g. transfers and downgrading) and dismissal | MoLE. DoL | According to section 196A (1) of BLA, 2006, workers have a protection from anti-union discrimination on the part of employers. |
| 30 | Lack of adequate legal guarantees against anti -union discriminatory measures | MoLE. DoL | According to section 196A (2) of BLA, 2006, SOPs on anti-union discrimination have been incorporated for measures along with Labour Court. |
| 31 | Provisions in law allowing for interference of employers and/or public authorities | MoLE. DoL | According to section 195 of BLA, 2006, interference of employers will treat as unfair labour practices on the part of employers. |
| 32 | Lack of adequate legal guarantees against acts of interference | MoLE. DoL | According to section 195(2) of BLA, 2006, SOPs on unfair labour practices have been incorporated for measures along with Labour Court. |
| 33 | Infringements of the right to establish and join federations/confederations/international organizations | MoLE. DoL | According to section 176(c) of BLA, 2006, trade unions of workers shall have the right to form and join federations and any such union or federation shall have the right to affiliate with any international organisation or confederation of organizations of workers |
| 34 | Lack of guarantee of due process and/or justice re violations nos. 23 -33 | MoLE. DoL | According to section 308 of BLA, 2006, if any person who has been convicted of any offence punishable under this Act or rules, regulations or schemes is again convicted of the same offence, he shall be punishable on a subsequent conviction with twice the punishment provided for that offence. |
| **IIb. Right of workers to establish and join organizations in practice** | | |  |
| 35 | General prohibition of the development of independent workers' organizations | DoL |  |
| 36 | Exclusion of workers from the right to establish and join organizations | DoL |  |
| 37 | Previous authorization requirements | DoL |  |
| 38 | Restrictions on the freedom of choice of trade union structure and composition | DoL |  |
| 39 | Imposed trade union unity | DoL |  |
| 40 | Dissolution/suspension of legally functioning organizations | DoL |  |
| 41 | Anti -union discriminatory measures in relation to hiring, during employment (e.g. transfers and downgrading) and dismissal | DoL |  |
| 42 | Committed against trade union officials re violation no. 41 | DoL |  |
| 43 | Lack of guarantee of due process and/or justice re violation no. 41 | DoL |  |
| 44 | Acts of interference of employers and/or public authorities | DoL |  |
| 45 | Lack of guarantee of due process and/or justice re violation no. 44 | DoL |  |
| 46 | Infringements of the right to establish and join federations/confederations/international organizations | DoL |  |
| 47 | Lack of guarantee of due process and/or justice re violations nos. 35 -46 | DoL |  |
| **IIIa. Other union activities in law** | | |  |
| 48 | Infringements of the right to freely draw up constitutions and internal rules and administration | MoLE. DoL | According to section 176(d) of BLA, 2006, trade unions shall have the right to make their own constitution and rules. |
| 49 | Infringements of the right to freely elect representatives | MoLE. DoL | According to section 176(d) of BLA, 2006, the trade unions shall have the right to elect their own representatives with full independence. |
| 50 | Infringements of the right to freely organize and control financial administration | MoLE. DoL | According to section 194(1) of BLA, 2006 every registered trade union shall have power to enter into contract and to acquire, hold and dispose of property. |
| 51 | Infringements of the right to freely organize activities/programmes | MoLE. DoL | According to section 176(d) of BLA, 2006, the trade unions shall have the right to organize their administration and activities and to formulate their programmes. |
| 52 | Prohibition of all political activities | MoLE. DoL | According to section 176(d) of BLA, 2006, the trade unions shall have the right to organize their administration and activities and to formulate their programmes. |
| 53 | Lack of guarantee of due process and/or justice re violations nos. 48-52 | MoLE. DoL | According to section 308 of BLA, 2006, if any person who has been convicted of any offence punishable under this Act or rules, regulations or schemes is again convicted of the same offence, he shall be punishable on a subsequent conviction with twice the punishment provided for that offence. |
| **IIIb. Other union activities in practice** | | |  |
| 54 | Infringements of the right to freely draw up constitutions and internal rules and administration | DoL |  |
| 55 | Infringements of the right to freely elect representatives | DoL |  |
| 56 | Infringements of the right to freely organize and control financial administration | DoL |  |
| 57 | Infringements of the right to freely organize activities/programmes | DoL |  |
| 58 | Prohibition of all political activities | DoL |  |
| 59 | Lack of guarantee of due process and/or justice re violations nos. 54-58 | DoL |  |
| **IVa. Right to collective bargaining in law** | | |  |
| 60 | General prohibition of the right to collective bargaining | MoLE. DoL | According to section 202 of BLA, 2006, workers have the right to collective bargaining. According to section 202(24) (b) of BLA, 2006, CBA represent all or any workers in any proceeding. |
| 61 | Insufficient promotion of collective bargaining | MoLE. DoL | According to rule 181(3) of BLR, 2015, the trade union obtains the greatest number of votes will be declared as CBA by the DG  Of Department of Labour by form-62 as per section 202 (15) (e) of BLA, 2006. |
| 62 | Exclusion of workers from the right to collective bargaining | MoLE. DoL | According to section 175 of BLA, 2006, security staffs, firefighting staffs and confidential assistant are excluded from the right to collective bargaining |
| 63 | Exclusion/restriction of subjects covered by collective bargaining | MoLE. DoL | According to rule 202 of BLR, 2015, administrative functions of a factory are not covered by collective bargaining. |
| 64 | Compulsory arbitration accorded to collective bargaining | MoLE. DoL | According to section 210(12) of BLA, 2006, voluntary arbitration accorded to collective bargaining. |
| 65 | Excessive requirements and/or lack of objective, pre-established and precise criteria for the determination/recognition of trade unions entitled to collective bargaining | MoLE. DoL | According to section 202(5) of BLA, 2006, 1/3 of the total workers have to be member of the trade union which will act as CBA.  According to section 202(15) (e) of BLA, 2006, obtained vote of a trade union must be 1/3 of the total workers for the declaration of CBA. |
| 66 | Acts of interference in collective bargaining | MoLE. DoL | According to section 209 of BLA, industrial dispute shall be raised by an employer or by a collective bargaining agent only. |
| 67 | Violations of collective agreements | MoLE. DoL | According to rule 203 of BLR, 2015, disposal paper will be signed in accordance with Form -65 to fill up the purposes of section 210 (3) and of 210 (8) of BLA, 2006. |
| 68 | Infringements of the consultation with workers' organizations | MoLE. DoL | According to section 202A(1) of BLA, 2006, a collective bargaining agent (CBA) may, if he or it deems necessary for carrying out collective bargaining activities, take assistance from specialists. |
| 69 | Lack of guarantee of due process and/or justice re violations nos. 60-68 | MoLE. DoL | According to section 308 of BLA, 2006, if any person who has been convicted of any offence punishable under this Act or rules, regulations or schemes is again convicted of the same offence, he shall be punishable on a subsequent conviction with twice the punishment provided for that offence. |
| **IVb. Right to collective bargaining in practice** | | |  |
| 70 | General prohibition of the right to collective bargaining | DoL |  |
| 71 | Insufficient promotion of collective bargaining | DoL |  |
| 72 | Exclusion of workers from the right to collective bargaining | DoL |  |
| 73 | Exclusion/restriction of subjects covered by collective bargaining | DoL |  |
| 74 | Compulsory arbitration accorded to collective bargaining | DoL |  |
| 75 | Excessive requirements and/or lack of objective, pre-established and precise criteria for the determination/recognition of trade unions entitled to collective bargaining | DoL |  |
| 76 | Acts of interference in collective bargaining | DoL |  |
| 77 | Violations of collective agreements | DoL |  |
| 78 | Infringements of the consultation with workers' organizations | DoL |  |
| 79 | Lack of guarantee of due process and/or justice re violations nos. 70-78 | DoL |  |
| **Va. Right to strike in law** | | |  |
| 80 | General prohibition of the right to strike | MoLE. DoL | According to section 211(1) of BLA, 2006, workers have the right to strike. |
| 81 | Exclusion of workers from the right to strike | MoLE. DoL | According to section 211(8) of BLA, 2006, the workers from newly established, foreigners’ owned and foreigners’ collaborated factories have no right to strike a period of 3 years from the date of commencement. |
| 82 | Exclusion/restriction based on the objective and/or type of the strike | MoLE. DoL | According to section 211(3) of BLA, 2006, the strike which lasts for more than 30 days may be prohibited by government. |
| 83 | Provisions in law allowing for the suspension and/or declaration of illegality of strikes by administrative authority | MoLE. DoL | According to section 211(4) of BLA, 2006, the strike may be suspended by government at any time in case of public utility service. |
| 84 | Lack of compensatory guarantees accorded to lawful restrictions on the right to strike | MoLE. DoL | According to section 211(5) of BLA, 2006, the government shall refer the dispute to the Labour Court in case of lawful restrictions on the right to strike |
| 85 | Infringements of the determination of minimum services | MoLE. DoL | N/A |
| 86 | Compulsory arbitration accorded to strikes | MoLE. DoL | According to section 211(6) of BLA, 2006, the Labout Court provides interim awards/awards to strike after judicial proceedings as expeditiously. |
| 87 | Excessive prerequisites required for exercising the right to strike | MoLE. DoL | According to section 211(1) of BLA, 2006, 51% of majority through a secret ballot requires for exercising the right to strike. |
| 88 | Acts of interference during the course of strike action | MoLE. DoL | According to section 211(3) of BLA, 2006, if the continuance of the strike is causing serious hardship to the public life, then the government refers the dispute to Labour Court by prohibiting strike. |
| 89 | Imposing excessive sanctions in case of legitimate strikes | MoLE. DoL | N/A |
| 90 | Lack of guarantee of due process and/or justice re violations nos. 80-89 | MoLE. DoL | According to section 308 of BLA, 2006, if any person who has been convicted of any offence punishable under this Act or rules, regulations or schemes is again convicted of the same offence, he shall be punishable on a subsequent conviction with twice the punishment provided for that offence. |
| **Vb. Right to strike in practice** | | |  |
| 91 | General prohibition of strike | DoL |  |
| 92 | Exclusion of workers from the right to strike | DoL |  |
| 93 | Exclusion/restriction based on the objective and/or type of the strike | DoL |  |
| 94 | Provisions in law allowing for the suspension and/or declaration of illegality of strikes by administrative authority | DoL |  |
| 95 | Lack of compensatory guarantees accorded to lawful restrictions on the right to strike | DoL |  |
| 96 | Infringements of the determination of minimum services | DoL |  |
| 97 | Compulsory arbitration accorded to strikes | DoL |  |
| 98 | Excessive prerequisites required for exercising the right to strike | DoL |  |
| 99 | Acts of interference during the course of strike action | DoL |  |
| 100 | Imposing excessive sanctions in case of legitimate strikes | DoL |  |
| 101 | Committed against trade union officials re violation no. 100 | DoL |  |
| 102 | Lack of guarantee of due process and/or justice re violations nos. 91-101 | DoL |  |