

Situation of Freedom of Association & Collective Bargaining in Factories in India & BD

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Abstract

The status of workers' rights to collective bargaining and freedom of association is determined by this study. It illustrates the reasons behind and methods by which factories resist implementing collective bargaining and freedom of association. Regretfully, the majority of factories in Bangladesh and India have not even reached the initial stage of social dialogue, which is the exchange of information between employers and workers. The most dreaded clause is Freedom of Association and Collective Bargaining. Throughout the supply chain, there is a lack of scrutiny and risk assessment for FOA and CB. However, worker participation may be increased and everyone can contribute to improving factories with training provided to managers, supervisors, and workers.

Freedom of association is the right of workers and employers to freely form and join Workers Organisations such as trade unions, worker associations and worker councils or committees for the promotion and defence of occupational interests.

Collective bargaining is a process through which employers (or their organisations) and workers' associations (or in their absence, freely designated workers' representatives) negotiate terms and conditions of work. Both are fundamental rights and they are linked. Collective bargaining cannot work without freedom of association because workers' views cannot be properly represented. Workers must be free to choose whether and how they are to be represented and employers must not interfere in this process.

A **Collective Bargaining Agreement** is a legally enforceable written contract between the management of a company and its employees, represented by a Workers Organisation, that defines terms and conditions of work. Collective bargaining agreements must comply with Applicable Law.

A **Workers Organisation** is a voluntary association of workers organised on a continuing basis for the purpose of maintaining and improving their terms of employment and workplace conditions.

Both Freedom of association & CB are most feared clauses and factories are reluctant to implement it in true sense though an effective worker/management dialogue at work places can be achieved by strengthening worker committees so that every worker in factory knows whom to approach in case of any problem & have clear understanding of what they need to do with regard to achieving the organisation's freedom of association & CB goals and objectives.

Current Status in Factories	Recommendations
Most of the factories have policy on FOA & CB but there is no training on it and it is hardly implemented.	Factories shall have a policy on FOA & CB and they need to impart structured training to all the workers so it can be implemented effectively.
Worker representative is selected by the management and not elected by the workers. Worker committees are really useful mechanisms for worker input if worker committee is democratically elected and independent.	Facility should initiate the fair election process in the facility without the intervention of management and constitute worker committees democratically.
There is unequal representation of Management & workers in Worker Organizations/Committees/ councils/ associations.	Factory needs to have equal representation from Management & workers in all worker organizations/ Committees/ Councils/Associations.
There are 5 committees namely Workers committee H&S committee Sexual Harassment prevention committee Grievance Handling committee Canteen committee Existing in the facility on papers only. Workers are not aware of these committees. Representation is given to the workers hired thru factory only. Ladies are not part of any committee other than Sexual harassment prevention committee.	Committees should be formulated with equal representation of management and workers covering all departments and including the representation of workers from contractors and females as well. The committees have to be as per the law (Industrial Dispute Act 1947).
There is no integration of FOA in other policies like H & S, Environmental performance, Equality & diversity and Grievance mechanism.	Factories need to integrate FOA in other policies like H & S, Environmental performance, Equality & diversity and Grievance mechanism.
Workers are not aware of the Worker Representatives and committee members.	Training to be imparted on workers on WR & Committee functioning. The grievance Handling mechanism to made clear.
Piece rated workers are not considered workers and rates are decided by the management & not through collective bargaining.	There should be system for fixing the piece rate and it should be implemented through collective bargaining.
Women & Vulnerable class of workers (Contractor workers, Casual workers, Piece rated workers, Migrant workers, Daily rated workers) are not part of any worker organizations/ councils/ committee.	Factories need to include Women & Vulnerable class of workers in worker organizations/ councils/ committee.
Grievances mentioned in records are mostly fake in India, whereas there are real in BD. There are no time norms to address the grievances. There is no effective follow up on the reported grievances. HR departments never do analysis and find root cause of the grievance/s.	Factories need to discuss and record real grievances. There should be time norms to address the grievances. System of follow up on reported grievances. HR departments should do analysis and find root cause of the grievance/s.
Sometimes Factories promote any particular union or workers' association and coerce workers to join or leave one. Election of union representatives is not without intervention from the employer.	Factories need to be impartial and should not coerce workers to join or leave. Worker affairs should be left to workers only.

Some brands do not want auditors to check FOA & CB (Contractor workers are not considered as workers and they cannot be part of worker committees).	Brands need to respect rights of contractor workers also. This is most Vulnerable class of workers.
Factories & Brands do not have objective (with Quantification) w.r.t FOA & CB, Progress is neither monitored nor measured.	Factories & Brands should have objectives (with Quantification) w.r.t FOA & CB. They need to monitor & measure progress.
There is no due diligence & risk assessment for FOA & CB across the supply chain.	There should be due diligence & risk assessment for FOA & CB across the supply chain.
Factories do not have any communication strategy towards suppliers, agents and other business partners with respect to FOA & CB	Factories should have communication strategy (Identify the opportunities for open dialogue and develop a communication approach) towards suppliers, agents and other business partners with respect to FOA & CB
There is no dispute resolution.	There should be dispute resolution mechanism.

There are three types of social dialogues:-

- a) Exchange of information- It refers to passing or giving of information from one party to the other (Employee to Employer or vice a versa). It can be formal or informal. It is the simplest form of social dialogue, It is not two way.
- b) Consultation:- As a due diligence, It refers to the process of seeking information proactively from other party & requesting their inputs on a topic or discussion point. For example:-Management holding a meeting with worker representatives to receive feedback on a new H & S policy before making changes.
- c) Negotiation:- It is the most advanced type of Social dialogue where both parties sit on the table and decide collectively on a policy, topic resulting in a collective bargaining agreement.

The factories in India & BD have not even reached first level of social dialogue.

For any type of social dialogue to take place, there must be an environment and structure that supports it.

The ILO states that for social dialogue to take place, the following must exist:

- Strong, independent workers' and employers' organisations with the technical capacity and access to relevant information to participate in social dialogue;
- Political will and commitment to engage in social dialogue on the part of all the parties;
- Respect for the fundamental rights of freedom of association and collective bargaining; and
- Appropriate institutional support.

Benefits of FOA & CB

- The entire “human resource” philosophy emphasizes the fact that workers are a company’s most valuable asset. Most employers want to keep their employees happy if they can. Employee participation programs and Direct communication between factory workers and their management helps both parties improve Morale and factory working conditions. It is the system of communication & consultation.
- It is the distribution of social power in the Factory.
- It raises awareness about issues that only workers can see, and it also increases accountability as response from the management to the concerns is vital.

- The company committed to implementing committee solutions that did not cost too much. This gave workers a meaningful voice on the job while management fixed problems it didn't know it had. In fact, it prohibits almost any formal **employee voice** on the job outside.
- If workers want a formal voice with management, they need mechanism.
- In-factory training for workers, typically in small groups,
 - a) Purpose of FOA & CB is Worker Voice,
 - b) How to use FOA & CB as tool for better productivity.
 - c) Training to workers on FOA & CB.

Conclusion

The living and working conditions in the factories can be improved by worker engagement. However, organisations must train their workers, managers, and supervisors and adopt a new perspective. In addition, factories must put the regulations pertaining to worker committees into practice—not only on paper, but in their truest sense. To get employees involved in the day-to-day operations of the company, they must adhere to all three forms of dialogue: information exchange, consultation, and negotiation. Along with improving worker-management relations, it will help boost output and lessen problems with quality.

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