



Compliance With Core International Labor Standards in National Jurisdiction: Evidence from Bangladesh

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Abstract

The author investigates the major challenges of effective implementation of core labor standards within the labor jurisprudence of Bangladesh. Since its labor laws were formulated in conformity with the fundamental ILO Conventions, non-enforcement of national regulations signifies non-compliance with core labor standards. The author draws a picturesque analysis of the extent of application of core international labor standards in Bangladesh through its labor laws and practices. He observes that the compliance situation in Bangladesh is quite similar to the contexts of other developing countries. Although the laws and policies are generally congruent with the core ILO conventions and international codes of conduct, their implementation in the labor sectors passes a signal of dismay. The author concludes that poor implementation of national labor laws and ineffective compliance with the ILO conventions within the domestic jurisdiction of Bangladesh cause innumerable loss to the workers, society and the national economy.

1.1 Introduction

Core International Labor Standards are a set of internationally recognized minimum best practices or safeguards with regard to some basic labor rights. When the standards are ratified by national governments, they constitute binding legal obligations in both national and international law.¹ National governments are obliged to formulate labor laws and policies complying with the core labor standards. The ILO recognizes the following rights and principles as core international labor standards: i) freedom of association (C-87), ii) right to collective bargaining (C-98), iii) protection against forced or compulsory labor (C-29,105), iii) abolition of child labor, (C-138,182) and iv) protection against discrimination at work (C-100,111).² These basic rights may also be comprehended, combinedly or discretely, from ‘international codes of conduct’ or ‘international social standards’,³ Universal Declaration of Human Rights

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1948, UN Convention on the Rights of the Child 1989, Copenhagen Declaration on Social Development 1995, and UN Convention on the Elimination of all Forms of Discrimination against Women 1979.

Core international labor standards are promoted at the domestic level with the presumption that the standards provisions would translate into rights for the workers. International labor standards translate into legal rights when those are reflected in national labor laws either because the state has ratified the relevant ILO conventions through legislations or because national constitution or law confers various labor rights on the workers.⁴ The ILO encourages the member states to facilitate and take initiatives for the application of international labor standards into their own domestic jurisdictions. The Declaration on Fundamental Principles and Rights at Work (1998) and the Philadelphia Declaration (1944) call upon the member states to comply with (respect, promote and realize) ILO's eight core conventions regardless of whether they have ratified the relevant conventions or not. This indicates that all countries, by virtue of being members of the ILO, are bound to respect and promote the core labor standards.

Efforts to implement the core labor standards (CLS) into national legal systems of developing countries have been negatively perceived as 'anti-business', 'investment disincentive', 'job killer', or 'western protectionist measure'.⁵ However, there is no solid evidence that foreign investors prefer countries with lower labor standards; rather they prefer countries with higher labor standards.⁶ The challenges of globalization have made the core international labor standards more relevant than ever. The ILO and ADB consider CLS as fundamental to national development and to the full achievement of human rights of workers. They promote an atmosphere conducive to the compliance of all core labor standards into national jurisdictions. Such compliance is relevant in the context of: i) human development, ii) labor market reforms iii) removing barriers to access to resources and opportunities, and iv) eliminating discrimination at work.⁷ Lack of compliance with CLS undermines the economic development objective of a country. Any development goal that considers labor issues as secondary and gives primacy to economic and financial objectives is destined to fail or to be only partially successful. Proper implementation of core labor standards by the regulatory authorities and industries ensures economic and social development as well as decent employment for all workers thereby reducing poverty and inequality. Hence, it cannot be gainsaid that respect for core labor standards is not only an important requisite of economic development, but also an inevitable means of achieving sustainable development.⁸

1.2 Core Labor Standards and Labor Law System of Bangladesh

The article investigates the extent of compliance of core international labor standards within the industrial relation framework of Bangladesh in the light of the ILO's eight fundamental Conventions. The investigation uncovers the main challenges of transformation of standards provisions to labor rights as manifested through regulations, industry practices, trade union activism, adjudication, labor administration etc. Such investigation creates a scope for evaluation of the extent to which national labor laws reflect the core international labor standards. The underlying objective of this evaluation is to demonstrate that Bangladesh's labor jurisprudence should comply with the norms of core labor standards in order to minimize the pandemic violation of fundamental labor rights. In order to achieve this objective, the paper identifies the root causes of non-compliance or non-implementation of national labor rules and core ILO Conventions.

Whether or not the core international labor standards translate to labor rights is discernible from the availability of similar provisions in national legal framework. But a mere availability of national legal rules can hardly ensure the compliance with core labor standards. To make a judgment as to what extent the core labor standards have reflected into workers' rights in Bangladesh, it is necessary to examine the labor regulations and practices denoting clear recognition of obligations, protection and recourse under ILO's fundamental conventions. Domestic labor laws of Bangladesh widely cover core international labor standards but are subject to limited protection with low or partial enforcement due to various loopholes and shortcomings. Considering this circumstance, Zakir has asserted that the existing labor law system of the country is the outcome of a compromise between the conflicting interests of workers and employers.⁹

Bangladesh's labor law system is based on the principle of social justice which also constitutes the corner stone of ILO's labor policy.¹⁰ It consists of Statutes, Rules, Policies, case laws and industrial practices. The regulations which predominantly recognize core labor standards are: a) the national Constitution,¹¹ b) the Labor Act 2006, c) the Labor Rules 2015, d) the EPZ Workers Welfare Association and Industrial Relations Act 2010, e) Bangladesh Export Processing Zones Authority (BEPZA) Act 1980, f) BEPZA Instruction No 1 & 2 of 1989, g) the National Labor Policy 2012, h) National Child Policy 2011, and i) National Child Labor Elimination Policy 2010. These laws include both substantive and procedural rules prescribing the means to get redress against violations of labor rights. They address two broad categories of labor rights. First, collective labor issues dealing with the tripartite relationship between

employees, employer and union. Second, individual labor issues concerning individual worker's rights at work.¹²

The Labor Act 2006 is the most significant labor legislation in Bangladesh. It is a fairly comprehensive law and addresses almost all basic rights of workers including the principles of core international labor standards.¹³ Thus, the Act covers labor issues relating to conditions of employment, *working hours and leave*, operation of trade union activities and industrial relations, minimum wages, compensation for occupational injuries and death, settlement of industrial disputes, occupational health and safety, social security, labor administration and other related issues. The 2006 Act was enacted in line with eight fundamental ILO conventions (Bangladesh has ratified seven out of these eight core conventions, the only convention not being ratified is C-138). It also meets most of the requirements of international codes of conduct.

A close look into the interface between the international codes of conduct and core ILO Conventions reveals that they are mutually congruent and provide common legal framework for core international labor standards. As evidenced from other studies, full (100 *per cent*) compliance of the Labor Act 2006 will allow the enterprises to cover 85-90 per cent of the compliance requirements of the general codes of conduct. That means, if the national labor laws are effectively implemented within the domestic jurisdiction of Bangladesh, substantial compliance with core international labor standards will be achieved.¹⁴ Thus, it may be ascribed that domestic labor laws are great means for the entrepreneurs and regulators to apply core labor standards in the country. They provide overall guidelines for the entrepreneurs to ensure socially and environmentally responsible working conditions in their establishments. Nevertheless, the absence of corresponding provisions in the national law to incorporate any specific labor standard (either laid down in core ILO conventions, or international codes of conduct) can be supplemented by the Constitution of Bangladesh. If there is no domestic legal coverage for any fundamental labor right, or if at all, such coverage is incomplete, the core ILO conventions may be invoked directly by the regulatory authorities to ensure social justice for workers.¹⁵

1.3 Extent of Compliance of CLS in Bangladesh

As has been discussed above, the labor jurisprudence of Bangladesh attempts to safeguard the fundamental rights of workers enunciated in ILO's fundamental conventions and international codes of conduct.¹⁶ But the ground realities do not allow safe haven for effective application of these labor standards. Evidently, there are widespread violations of labor rights and labor laws in Bangladesh.

This section evaluates the labor law system of Bangladesh in order to figure out the extent to which the core labor standards are complied with in law and practice here.

1.3.a Overall working condition in Bangladesh: Decent work deficit

In spite of a plethora of laws and policies, the overall working condition in Bangladesh poses acute challenges to the effective implementation of CLS within its domestic jurisdiction. There are huge decent work deficits and widespread violations of fundamental labor rights and labor laws in all labor sectors.¹⁷ Defects in the labor law system and weak enforcement of standards or non-observance of labor rights have made an inroad on transforming the core international labor standards into workers' rights. Adherence to these standards by the employers, regulators, judiciary or other agencies is often non-existent in the country's industrial relations system. The workers can hardly enjoy the full-fledged benefits provided by national and international labor rules. Their rights are neither safeguarded nor do their woes get importance by the employers and policymakers. The preference of employers in all private sectors for short-term hiring of young employees has exposed the workers to many work-related risks and injustices. Hardships which the workers in Bangladesh go through include: low wages, underpayment, long working hours, unsecured employment structure (non-issuance of appointment letters and identity cards), gender inequality, unsafe working condition, narrow access to social security benefits, *de facto* censorship on unionism and collective bargaining, and weaker legal protection.¹⁸

The repression of basic labor rights has led to numerous labor unrests in the country in recent years. The workers are largely unorganized due to dysfunctional trade union culture. Industries and establishments encounter inadequate observance of occupational health and safety standards as well as improper inspection activities. Many hazardous sectors like ship breaking, garments, construction, re-rolling mills etc. cause casualties and injuries and generate environmental and health risks.¹⁹ The basic rights of workers in most labor sectors are disregarded due to the '*hire and fire*' tactic adopted by the employers. There is no effective mechanism to ensure accountability or responsibility of them.²⁰

1.3.b Limited scope of labor law

The exclusionary character of Bangladesh's labor regulations invalidates the basic right of a citizen to have guaranteed employment at reasonable wages as endorsed by the ILO Convention 22 and the Constitution of Bangladesh.²¹ Due to the limited scope of labor law majority of the labor force are denied their recognition as 'worker' and thereby deprived of

their fundamental rights at work. This is found to be in common in all South Asian countries. The following incidences demonstrate the limited scope of labor laws of Bangladesh.

Apply only to formal sectors, exclude informal sectors

Labor laws in South Asia generally apply only to certain formal sectors and exclude informal sectors from their scope. The laws do not recognize and protect the informal sector workers and, as such, they are excluded from all basic labor rights. The legal framework for regulating employment relationships is largely focused on typical full-time regular employment in the organized sector.²² Thus, the Labor Act 2006 of Bangladesh, Factories Act 1934 of Pakistan, Factories Act 1948 of India, Factories Ordinance 1950 of Sri Lanka, Labor Act 1992 of Nepal apply to factories and other specified establishments, but not to all establishments where workers are engaged or employed.²³ Bangladesh's Labor Act 2006 applies only to formal private sector workers except those mentioned in Section 1(4).

The exclusion of informal workers from the coverage of labor laws bespeaks that there is no institutional mechanism of dispute resolution for them, and no regulation available for governing the terms and conditions of their works. They do not have access to statutory benefits (job security, social security etc) or have very limited coverage thereof. The preference attached to industrial sector as the main vehicle of economic growth appears to be the central reason for such exclusion.²⁴ Lack of strong demand for legal protection from the poorly organized segment of the economy is another reason for the exclusion of informal sector. Subramanian views that labor policies with regard to the unorganized sectors are "in direct proportion to the amount of trouble and worry that labor can give to the government". This accounts for the fact that informal sector workers, who are phenomenally dumb and helpless, derive the least measure of support and assistance from the state.²⁵

However, in spite of the eccentric biasness in favour of formal sectors, developing countries have witnessed high growth of unorganized informal labor sectors in recent times. Globalization and changes in the production process have caused the shift of employment from the organized to the unorganized sector. Sharma considers the 'inflexibility' of the formal economy bound by rigid labor rules as the reason for decline in employment growth in the formal or organized sector.²⁶ Even within the organized sector there has been a decline in full-time employment and an increase in casual and contractual employment. This is particularly true for women workers in Bangladesh and other Asian countries, because the percentage of women in the unorganized workforce is higher than the percentage in the organized sector.²⁷

Entail minimum number of workers

Labor laws of Bangladesh apply to establishments which employ a varying minimum number of workers. For example, for setting up of Safety Committee minimum 50 workers, for maintaining Safety Record Book minimum 25 workers, for separate shelter rooms more than 25 female workers, and for introducing compulsory group insurance minimum 100 permanent workers must be employed. In India, for matters relating to social security or conditions of work most of the labor laws have a threshold limit of 10 or 20 employees. The limit is even higher, fixed at 50 or 100 in the case of laws dealing with terms of employment, disciplinary action procedures, and compensation for retrenchment, lay-off and closure.²⁸ In Pakistan several labor laws apply only to workplaces with more than 50 workers.²⁹

Exclusion of wide variety of workers

As mentioned above, the central character of the Labor Act 2006 is 'worker'. If an employee's status does not fall within the definition of 'worker', he/she remains outside the purview of the Act. A worker under the Labor Act is a person employed (either directly or through a contractor) in any commercial or industrial establishment to do any skilled, unskilled, manual, technical, trade promotional, or clerical work for hire or reward. However, a person employed in a managerial or administrative capacity (ie, Monitoring Officer or Supervising Officer) cannot be treated as worker (S. 2(65)). But mere designation is not sufficient to indicate whether a person is a 'worker' or an 'employer'. Determination of the status of an employee as 'worker' should be influenced by the nature of works done by him, not by his designation. The nature of works showing the extent of his authority determines whether he is a 'worker' or an 'employer'.³⁰

Most establishments in Bangladesh and India employ less than 10 workers and are thus below the threshold limit. This aspect coupled with definitions of worker based on 'functional or remunerative criteria' excludes certain categories of workers limiting the coverage of labor laws. Thus, since the managerial and administrative employees in private sectors in Bangladesh are excluded from the scope of labor law, they cannot join trade unions (as they are not employers to attract section 176(b) of the Labor Act 2006). Whereas, in India, managerial and administrative staffs have the right to form unions under the Trade Unions Act 1926 but are excluded from the scope of the Industrial Disputes Act, 1947.³¹ The Labor Act 2006 also does not apply to the workers of certain sectors and excludes them from its operation.³²

Exclusion of casual, temporary and short-term workers

The classification of workers into several categories (i.e., apprentice, casual, badli, probationer, temporary) under section 4 of the Labor Act has given the private sector enterprises an opportunity of exploiting workers. Majority of the workers in Bangladesh are employed on a temporary or casual basis whether they work in formal or informal sector.³³ Temporary or casual workers are employed in an establishment on daily wages, for works of ad-hoc, or temporary in nature. These unskilled and non-regular workers are not treated as permanent workers due to the 'ad-hoc, or temporary' nature of their works. Hence, they are normally excluded from the scope of the Labor Act. They receive neither the benefits laid out in labor laws (as the permanent workers do) nor additional wages to compensate for the loss of benefits.³⁴ As a result, the labor laws apply only to a small proportion of the workforce who can enjoy the benefits of regular workers. Therefore, although an enterprise may be covered by the law due to its size or sector and thus be part of the formal economy, a number of workers employed therein can still fall outside the scope of law due to the nature of jobs they perform or other exclusionary criteria. Hence, there seems to be the existence of informal employment within a formal enterprise.³⁵

Most employers in the private sector prefer to recruit non-regular or casual workers to escape providing the workers the benefits of full-time or formal employment contract and avoid unionism.³⁶ The prevalence of daily and contractual workers in the private sectors indicates a high degree of employment informality or flexibility in Bangladesh.³⁷ The casual workers are not made permanent showing various excuses and the factory owners deprive them in many ways. Survey shows that workers can generally survive in a garments industry for not more than three years, with significant numbers registering a work experience of less than a year. However, in some informal sectors (construction and tea estate), few workers enjoy longer employment records spanning between 3-10 years.³⁸

The practice of contract labor (short-term work) has been increasing unevenly in Bangladesh in both formal and informal sectors.³⁹ Contract labor usually arises due to the economic policies and weaknesses of the formal or organized sector. In India, for example, changes due to economic policies had impact on the number of people covered by the labor laws. The loss of 1.1 million jobs in the manufacturing sector (organized sector) across major states and industry groups during 1995-2001 meant a reduction in the number of persons covered by labor laws. This incidence of job reduction coincided with a phenomenal growth of contract labor in the same sector.⁴⁰ In India, some of the labor laws

apply only to workers directly employed (regular workers) and in other cases contract labor is explicitly included in the scope of law. However, no separate law on contract labor is seen to exist in Bangladesh.

A major issue in any labor jurisprudence is whether and how these temporary workers can receive benefits on a par with permanent workers. Workers should not be discriminated against because they are casual workers, especially if casual workers are mainly composed of minority groups or women in a particular situation.⁴¹ If the work of a casual worker continues for a sustained period of time (beyond the legal limit for casual work) then laborers should be registered for social security entitlements.⁴² In the case of serious accidents, where it is not possible to bring casual unskilled workers under the national social security system, accident insurance should be provided to pay for disability, death, serious medical expenses and loss of income.

1.3.c Working conditions in informal sectors

Informal employment is characterized by the clear absence of employer-employee relationship, high incidences of home-based work, under-employment and lack of regular employment. An important feature of informality of employment is that the service conditions of informal workers are not subjected to standard labor law or taxation.⁴³ Informal job normally covers workers in unorganized sectors, like, agriculture, construction, domestic work, security service, health care centers, debt-bondage, self-employed jobs, works under subcontractors and small enterprises. Informal workers also include casual or temporary workers in the formal sector who do not have the minimum period of employment to be eligible for benefits. Employment in informal jobs is often seasonal, contractual, casual and intermittent.⁴⁴ Informal workers are characterized by a 'high degree of vulnerability'. They are not recognized or protected under the legal framework and are not entitled to certain employment benefits including social protection. Informal workers are neither able to enforce contracts nor have security of property rights.⁴⁵

The legal status and basic rights of informal sector workers are subject to the same adversities as mentioned in the previous two sections. Workers of informal sectors in Bangladesh are unorganized and there is very least chance for them to be unionized. Nearly 90% of them have been denied to form trade unions under the existing laws.⁴⁶ These workers are utterly neglected by the employers and are not treated with the dignity of human being. Two main reasons for general workers' vulnerability are: poverty and limited employment scope. Moreover, the unaccountable sub-contracting system (contractor dominated employment) has been creating the

gap between workers and real employers and is one of the main reasons for the victimization of workers.⁴⁷

Roughly 90% of workers engaged in informal sector work on 'NO WORK NO PAY' basis, which means, a worker gets paid only for the days he/she works and receives no wages for the days he/she remains absent from work for whatever reason. Such workers do not earn a minimum wage; they work at very low compensation which is far behind the minimum wages prevailing in various sectors. The conditions of work for them are precarious as well as unsafe and they have to live in acute poverty. The Labor Act 2006 and international codes of conduct require the employers to pay basic minimum wages or 'living wages' to the workers. This is also the spirit of the ILO's Equal Remuneration Convention (C-100) that state parties should ensure equal remuneration for all (for work of equal value) through legislation, introduction of a system for wage determination and collective bargaining agreements (Article 2). The general codes of conduct set out some criteria of minimum wage which are: i) wages shall be sufficient to meet basic needs of workers and their families and provide some discretionary income; and ii) wages shall always comply with all applicable laws, regulations and industry minimum standards. That means, the rates of wages should commensurate legal or prevailing industry wage, local minimum, national legal standards or industry benchmark standards whichever is higher. All these safeguards on wages are absent for workers of informal sectors in Bangladesh.⁴⁸

Job security is a great concern for all workers in the informal economy. Barring the exceptions, these non-regular workers do not get appointment letter or identity card-the most important basic documents to claim legal benefits as worker. Employers can terminate any such worker at any time without providing any compensation. Workers are usually allowed to work not more than few years in any establishment. Thus, many workers who are the only bread winners of their families become jobless and fall into distress. Although some workers, employed on permanent basis, have been working for long time in some sectoral factories, they are now to the verge of losing their jobs.⁴⁹ The ILO convention concerning discrimination at work (C-111) requires the member states to enact legislations prohibiting discrimination and exclusion in employment on any basis and repeal laws that are not based on equal opportunities. Although there is no direct provision as such along with the context of C-111, the Labor Act 2006 generally upholds the anti-discrimination spirit. However, this legislation or any other law in Bangladesh cannot provide any safeguard to the informal sector workers against insecurity of jobs.

It is estimated that on an average 80 per cent of all workers in South Asian region are engaged in unorganized sectors.

In Bangladesh, informal sector workers comprise 85% of the total workforce. In India and Pakistan, there are varying percentages of such workers between 61.5%-99% and 74%-91% respectively depending on specific sectors. In Sri Lanka the ratio is roughly 66% of all workers. This indicates that the incidences of informal labor is much lesser in Sri Lanka than other South Asian counterparts, i.e., Bangladesh, India and Pakistan.⁵⁰ The high incidence of informal jobs and unorganized sectors in Bangladesh and other South Asian countries has contributed to the low level of unionization among the workers. It is, therefore, essential to ensure decent work for all to increase the productivity and viability of informal sectors.⁵¹

1.3.d Multiplicity and lack of uniformity in the law

Multiplicity and lack of uniformity in the labor laws is another barrier to effectively comply with core labor standards in Bangladesh. This is also an issue in other South Asian countries. Although the Labor Act 2006 consolidated 25 previous labor laws, there are still more than 20 laws existing in Bangladesh. These multiple laws were enacted to deal with diverse conditions of employment in various sectors of the economy. India also owns more than two hundred (200) labor laws covering separate labor issues at both central and state levels.⁵² Like Bangladesh, consolidation has taken place to some degree in Sri Lanka and Nepal. Other efforts are also afoot to consolidate or simplify the labor law. In the case of Pakistan there was a move to reduce the number of labor laws from twenty-seven to six.⁵³ Indian National Labor Commission (2002) suggested similar rationalization and consolidation for the unorganized sector, while attempts were made to codify the labor laws in a single law.⁵⁴

Multiple definitions of key terms

Multiple laws with differing definitions of key terms signify a lack of uniform coverage. Workers may be covered under a law dealing with conditions of work but may be excluded from the scope of a social security law because their income is above the maximum income coverage limit. Again, uncertainty or ambiguity in the capacity of a law to protect all the workers undermines its authority as much as the non-applicability of it to other sectors of the economy.⁵⁵ Thus, for example, the terms 'worker', 'employer', 'establishment', 'industry', and 'wages' etc. are simultaneously defined in the Labor Act 2006, the EPZ Workers' Welfare Association and Industrial Relations Act 2010, the Labor Welfare Foundation Act 2006, State-owned Manufacturing Industries Workers (Conditions of Service) Act 1993 etc.; but their ingredients and applications are different.⁵⁶

The anomalous organization of different legal terms into various independent statutes has created much havoc in the application of labor laws in the country. Such a clumsy or unwieldy situation is a great obstacle to the effective application of core international labor standards through the national labor laws in Bangladesh.

Non-uniformity in the jurisdiction of enforcing authorities

Multiplicity of laws has another dimension affecting the capacity of a particular law to serve its purpose. Each law creates its own authority for compliance and adjudication of disputes. Thus, the Labor Act 2006, the EPZ Workers' Welfare Association and Industrial Relations Act 2010 and the Boilers Act 1923 provide for separate sets of administrative and adjudicatory authorities to deal with various labor issues, *like*, industrial relations, collective bargaining, regulation of union activities, dispute settlement and so on. This creates distraction in the application of universally accepted labor standards in the country and also causes the scope for discrimination among the workers of the same country. Otherwise speaking, such a situation invites circumstances for statutory and legally sponsored discrimination against workers (e.g., unequal treatment or wages for equal jobs, or access to benefits and better jobs etc). Multiplicity and non-uniformity of labor laws may happen in federal country where considerable variations in labor law compliance exist among the provinces or states (both the central and provincial legislatures can legislate on labor matters). But these should not be the cases for Bangladesh with its unitary governance character. Therefore, further simplification and consolidation of labor laws are a *sine qua non* in order to establish a unified labor law system with wide coverage to include all sectors.

1.3.e Numerous codes of conduct: Compliance challenges

In fact, many adverse circumstances exist in Bangladesh for enforcing core labor standards through the observance of international regulations. The existence of many different international codes of conduct and endless compliance requirements create hard challenges for the export suppliers both in terms of costs as well as implementation. There does not exist universally accepted social standards to deal with the buyers' requirement for social compliance. Most buyers rely on their own codes of conduct rather than the labor law to verify the compliance with international social standards.⁵⁷ The buyers' preferences to their own codes of conduct has become challenging for the suppliers. One supplier usually has more than one buyer. If each buyer has a different set of requirements, it becomes arduous for the suppliers to

implement all the requirements simultaneously. It is extremely difficult to have different setups on the same factory floor because of the minor differences in the national labor law and among the different buyers' codes of conducts.⁵⁸

1.3.f Exemption to EPZs

The system of exempting export zones from the scope of labor laws is a common practice in many countries including Bangladesh. Application of labor standards are generally restricted in their export zones. National labor laws are applicable to such zones, but their enforcement is deliberately kept weak in order to attract FDI and increase export earnings. For example, labor laws of Sri Lanka clearly privilege the maintenance of export sector manufacturing over the normal trade union rights of workers.⁵⁹ India's Special Economic Zone Act 2005 lays down the procedures for setting up special economic zones rather than the regulation of labor relations within such zones. Prior permission from the Development Commissioner in charge of these zones is required before inspection can take place, resulting in the enforcement agencies often turning a blind eye to lack of compliance.⁶⁰ Pakistan too follows the system of exempting export zones from the scope of labor laws.⁶¹

Under the Bangladesh Export Processing Zones Authority (BEPZA) Act, 1980 a number of Export Processing Zones (EPZ) were established in the country. BEPZA Instructions I and II of 1989 were issued to retain a minimum of labor standards in these zones. But these instructions put various limits on the rights of EPZ workers. For example, workers cannot enjoy leaves as of right; the granting of any leave is left at the mercy of the factory manager or person in charge of the worker.⁶² There is no maternity leave or benefits, gratuity or fixed amount of compensation for the workers. Entitlement to bonus has been made conditional on completion of certain work period. There is no legal safeguard of the workers against occupational health and safety hazards and unfair labor practice of the employers. Although the Instructions guarantee minimum wage for the workers; the amounts so offered are very insignificant compared to the real cost of living of the workers.

The first labor law recognizing the freedom of association of EPZ workers in Bangladesh was the EPZ Workers' Association and Industrial Relations Act of 2004. This was repealed by the *EPZ Workers Welfare Association and Industrial Relations Act* of 2010. The 2010 Act upholds the overall structure, context and provisions of the older one with some modifications.⁶³ Therefore, both laws can be considered jointly for examining the application of core labor standards into EPZ industries. Despite the expiry of the 2004 Act, discussion of its loopholes and their impact on the workers' right to union will not be irrelevant. Some serious

allegations of violation of workers' right to association in the EPZs came up before ILO's *Committee of Experts on the Application of Conventions and Recommendations* (CEACR).⁶⁴ There are some more criticisms against the labor practices in the EPZs. The now-expired 2004 Act and its successor 2010 Act enunciate the principle of 'one establishment, one union and one collective bargaining agent' in any EPZ factory or unit. That means, only one trade union is allowed in any EPZ factory or establishment which would also be the collective bargaining agent (CBA) for that industrial unit. The Acts left no scope for two or more trade unions in one establishment.⁶⁵ Both statutes thus considerably delimit EPZ workers' universal right to association (form and join unions) without intervention or interference by the employer or authority. No doubt, the ILO Convention 87 had been deliberately undermined in these Acts.

The principle of 'one trade union in one establishment' also violates national labor standard on unionism allowing three trade unions in one establishment or group of establishments. The two EPZ Acts impose high requirements for registration of a trade union (Workers Welfare Association) in an EPZ industry. For such registration, at least 30% eligible workers should support the application therefor.⁶⁶ The trade union is to be elected through the secret ballot (referendum) of workers. At least 51% of total workers ought to cast votes in the referendum and minimum 51% of such votes cast should support the trade union. Only then the union would be registered and the workers in the said industrial unit would then acquire the legitimate right to form union. Without the support of at least 51% workers (who cast vote) no trade union can be formed in any EPZ industry. This condition is complicated and cumbersome and is much higher than 30% requirement of the Labor Act 2006 regarding the registration of a trade union. The law allows the employers in the EPZs to continue to deny workers' rights to freedom of association and collective bargaining. Thus, in any consideration the EPZ Workers' Welfare Association and Industrial Relations Act of 2010 and its 2004 counterpart can be treated as anti-union laws.⁶⁷ To get rid of the faulty labor system in the EPZs, all related laws (BEPZA laws, EPZ Workers Association laws etc) must be streamlined with the fundamental ILO conventions and similar other international labor standards.

1.3.g Settlement of disputes through labor court

A Labor Court under the Labor Act 2006 enjoys exclusive and wider jurisdiction to adjudicate all labor disputes-collective or individual, industrial and non-industrial.⁶⁸ However, there are circumstances in which labor court fails to prevent

violations of core labor standards at the workplace. Technical faults in the labor law, defects in the dispute settlement system and influence of external forces are mainly responsible for non-observance of core labor standards in the labor court's justice delivery system. The Labor Act does not clarify how the workers and their unions can get redress in the labor court conveniently and at minimum or affordable cost. The law is not clear on the right of trade union leaders to represent union members in the court. Dispute settlement process in the labor court is complex, time consuming and expensive for them. Moreover, the rules of the court are technical and tend to favour the financially capable employers. There is no clear rule on how labor grievances can be raised at the plant level.⁶⁹ The Act requires that the labor court should dispose of a case within 60 days of its filing. But it does not categorically mention about the fate of the case if it is not settled within 60 days. There is a 30-day limitation to file appeal before the labor court when the Director of Labor rejects any application to register a trade union.⁷⁰ This time limit is relatively short for unions with limited resources and whose members work for long hours daily.

The labor courts in Bangladesh are burdened with many pending cases and the number of judges is not sufficient to dispose of such huge numbers of litigations. The common causes of years-long backlog of cases in labor courts are: vacancy in the post of judges, absence of representatives of workers and employers in the court proceedings, delay in sending summons, procrastination tactics of defendant lawyers in all stages of the case, delay in giving opinion by the representatives of workers and employers etc.⁷¹ The combined effects of these factors encourage serious violations of labor laws and non-observance of international labor standards by the employers and regulators. On the other hand, the labor court judges lack awareness or have little knowledge about international labor standards. They have no professional orientation or official instruction to consider the core labor standards in dispensing justice, hearing the cases or writing judgments. There is also lack of judicial activism in the labor courts to apply core labor standards in adjudication. As a result, ILO Conventions and Recommendations remain ignored in judicial settlement of labor disputes.⁷²

1.3.h Discrimination at work

Discrimination as to wages

As per the Labor Act, male and female workers should get equal wages for work of equal nature or value (section 345). It complies with the ILO standard on 'equal pay for equal amount of work' (C-100). Female garments workers are not discriminated with regard to wages. But they face

discrimination in job placement, increment and promotion. In informal sectors, females are discriminated in wages, benefits and other areas.⁷³ The Labor Act lacks specific provisions to address discrimination related to work place facilities, treatment of non-wage issues (e.g., promotion and placement), and other grounds of discrimination such as race, religion, ethnic group, etc. Majority workers in apparel industries do not know whether they are receiving wages according to their grades. They also do not know whether the minimum wage is implemented at their workplaces. There had been no specific guideline on the fixing of basic wages for piece-rated workers until September 2015. But after gazetting the Labor Rules 2015 the problem is now over. Wages of piece-rated workers can now be determined under Rule 111(6). It will be too early to assess the effectiveness of this provision. Most of the workers in the formal sector and almost all informal sector workers do not receive pay slip or any other document concerning the payment of wages and benefits. The workers are not aware about the law entitling them to their shares in company's profits.⁷⁴

Over-time wages

Under the Labor Act, workers providing extra hours of service to the employer are entitled to get overtime-allowance at a rate double than the ordinary basic wage plus other perquisites. However, the calculation of overtime pay is not spelled out for piece-rated workers.⁷⁵ Average workers in private enterprises do not know the overtime rate and get much below the legal minimum. Such practice of payment of low wages for overtime work exemplifies the incidence of discrimination in payment of wages at the workplace. This is in violation of core labor standards on work-related discrimination mentioned in ILO Conventions 111 (prohibition of discrimination at work) and 100 (equal remuneration).

Discrimination as to leaves

The Labor Act recognizes various types of leaves, e.g., casual leave, festival leave, medical leave, annual leave, and maternity leave. The law is discriminatory in the sense that the level of leave entitlement is not same for all categories of workers (for example, tea-state workers cannot enjoy casual leave). This contravenes the principle of equality of opportunity and treatment at work under ILO Convention 111 (Article 1).

Harassments at the workplace

Workers in the workplace are subjected to mental and physical harassment, verbal abuse, torture and sexual harassment.

The rates vary from industry to industry. A survey report reveals that about 40 per cent of the garments workers and 30 per cent of the construction workers endure mental harassment (due to verbal abuse and the likes). More than one-fifth (21.7 %) in the garments industry and a 8.4 per cent in the construction sector mentioned that they have experienced or faced physical harassment and torture. A few respondents (1.9 % in garments and 0.9 % in construction sectors) also admitted that they were harassed sexually at their workplaces.⁷⁶ Any discrimination or indecent behaviour towards female workers has been prohibited by the Labor Act. The legal protection here is restricted to women only (section 332). This is a notable loop hole of the law protecting workers against misbehavior of employers.

1.3.i No appointment letter or ID card: Lack of job security

The Labor Act 2006 and the general codes of conduct makes it mandatory for the employers to provide appointment letters and identity cards to the workers (section 5). Nevertheless, a large number of them are still deprived of these important legal documents.⁷⁷ In the informal sectors, the workers invariably don't receive any appointment letter or identity card. In the absence of written contracts, what prevails in general is oral contract and the workers cannot claim legal benefits under the law (i.e., compensation for workplace accident). Taking this opportunity (job without contract paper and ID card), the employers often dismiss workers without any prior notice and paying any compensation. The situation is more or less the same in the overall labor sector of the country. Therefore, workers are being denied their fundamental rights at work as they technically fail to prove their employment status.

1.3.j Termination simpliciter: Absence of 'due process' rule

The Labor Act 2006 has no express provision on the principle of "due process", which should be observed by employers in disciplinary, suspension and termination cases. Due process means workers should be notified specific cases against them and given reasonable opportunity to defend themselves through a procedure that is fair and objective.⁷⁸ The rule of *termination simpliciter* (summary dismissal) is a glaring example of absence of 'due process' provision in the Act. It allows the employer to dismiss a worker (whatever category) summarily at any time without: i) showing any reason to terminate, and ii) giving him any prior notice or chance for self-defense.⁷⁹ This process is exploitative in nature and deprives the worker from the right to due process or the right

to be heard. However, workers who lose their jobs due to termination, retrenchment, discharge or dismissal are entitled to certain financial benefits as compensation.⁸⁰ But getting financial benefits in these cases is quite bureaucratic: time-consuming, lengthy and complex procedure. For claiming retrenchment and discharge benefits, a worker must show proof of a minimum one-year service.⁸¹ Workers whose service length is below the minimum threshold are refused to get the compensation. Using these loopholes in the system, employers try to get rid of stubborn workers for their involvement with labor union or for any kind of conflicts of interests.

1.3.k Barriers to freedom of association and collective bargaining

The workers in Bangladesh encounter many barriers to effectively enjoy their universal rights to association and collective bargaining as enshrined in Chapter XIII of the Labor Act as well as ILO Conventions 87 and 98. There is either non-existence of labor unions or they cannot function properly in most factories or establishments. Because of overt and covert restrictions on unions in organizing, recognition, dispute settlement, collective bargaining and strike, full-fledged operation of trade unions is largely blocked in Bangladesh. This has created acute shortage of organized and legitimate trade unions in the labor sectors. Although some unions seem to exist, those are not trade unions in proper.⁸² In the RMG sector, the owners allegedly form fake trade unions by their own people. Consequently, the recently registered trade unions in this sector had been termed as 'eye wash' by the skeptical union leaders. They think that the increase of unions is not a sign of improvement unless workers can actually exercise their freedom of association. As a matter of fact, only a few newborn unions are in operation while others stopped functioning due to the fear of persecution by the employers.⁸³

It is alleged that workers are dismissed or terminated from jobs for their involvement in trade union activities.⁸⁴ Scarcity of employment opportunities compels them not to raise their voices. Besides, due to longer working hours in a day, they hardly have time for trade union activities.⁸⁵ In garments, shipbreaking and some other sectors owners maintain paid gangsters to prevent trade union pursuits. Once a union is formed in any factory or establishment, the employer singles out its leaders, then beats them severely, and sends the unionist workers to the police custody. In some cases, the concerned workers are beaten to death or disappeared. A worker who survives the torture is compelled to sign on a blank paper which is later fabricated as his resignation letter. The employer manipulates this fabricated paper as an instrument to deprive the concerned worker of his due benefits. The persecution continues further as the employer

sends the particulars of dismissed workers to other factories in order to avert them to get jobs therein. Many permanent workers had been dismissed or terminated in such ways. As they are the main bread winners of their families, they have fallen into distress due to job loss. Moreover, the owners of establishments lodge petitions with the Labor Court for cancellation of trade union registrations which is in fact within the sole jurisdiction of the Director of Labor under section 190(2) of the Labor Act.⁸⁶

Limited scope for grievance handling

The opportunity for the workers to express their grievances at the workplace is severely limited. Workers hardly have knowledge or opportunity of collective bargaining with their employers. Consequently, the culture of collective bargaining has, by and large, not been developed in the country. Disputes raised at the factory floor are solved mainly through informal discussion, presumably with the HR departments of the factories. This in no way fulfills the legal requirements of collective bargaining mentioned in the Labor Act. Such a scenario is very common in the garments industries where informal intermediaries try to mediate the grievances of workers. In the absence of workers' associations and tripartite body, workers often fail to get their grievances resolved in the proper way. Almost all informal sectors do not have collective bargaining between workers and employers excepting the construction sector where the workers hold bargaining with individual contractors for their grievances and demands under the Labor Act.⁸⁷

Right to strike: widely unrecognized

Although strikes happen in industrial disputes, workers perceive that the right to strike is never recognized at their workplaces. Some employers punish their workers who go on or participate in strikes. A significant number of workers do not know whether they have this right.⁸⁸ Moreover, the requirement for a lawful strike (support of *two-third* members of the Collective Bargaining Agent) is very stiff and is against the interests of workers.⁸⁹ This virtually cripples the CBA's weapon to realize reasonable demands of workers. In situations where the life of the union is at stake (e.g., leaders being dismissed from work), such a requirement is a subversion of unionism. The law has also imposed a 3-year ban on strikes in newly-established industries and joint-venture establishments partnered with foreigners.⁹⁰ Such a ban makes the right to strike ineffective and is against the interests of workers. On the other hand, there is no legal safeguard to protect the workers in lock-out situations where the employer temporarily closes down the factory

for destroying the union. The scope of 'lock-out' is much wider than 'strike' giving the employer undue favour in the dispute settlement process. All these defects in the Labor Act seriously undermine workers' right to 'due process' in dispute settlement and collide head-on with ILO Conventions 87 and 98.

Labor Act limiting the scope of trade union practice

Some shortcomings in the Labor Act put barriers to trade union practices in Bangladesh. The Act puts a 30 per cent membership requirement for registration of a trade union.⁹¹ For new unions, this numerical binding is a very high requirement and is virtually a trade union ban. Such provision does not correspond with ILO Convention 87 allowing all workers to exercise the right to form and join trade unions. Again, in order to be the Collective Bargaining Agent (CBA) a trade union should enroll one-third of the factory workers as its members or gain at least 30% votes of total workers in the establishment. Maintaining very high levels of membership to qualify as an agent for collective bargaining is another aspect of limiting trade union rights.⁹² In the Export Processing Zones, the requirements are much higher than the 30% threshold which makes huge inroad on the trade unionism in the export zones. EPZ workers are virtually unable to set up trade unions following the legal bars. Obstacles to representation make the rights provisions ineffective. The Labor Act provides limited access of outsiders to the trade union leadership in state owned industries.⁹³ Since there is no such scope for outsider leadership in private sectors, workers here are being denied the benefits of prudent and dynamic leadership. Thus, the law is exclusionary, discriminatory and self-contradictory. It restricts workers to exercise their freedom of association and collective bargaining; endangers their job security as well as access to certain social security benefits like gratuity.

Reasons for weak trade union culture in Bangladesh

Trade unions by their nature help increase the bargaining power of workers, promote their socio-economic well-being and secure decent working condition. Conversely, a defective and weak trade union system is the root cause of labor unrest.⁹⁴ Absence of effective trade union often causes the violations of basic labor rights. The reasons for failure of organized trade union movement in Bangladesh are: hostile attitude of employers towards unions, redundancy of fake unions, political influence, absence of honest, committed and dedicated organizers, yellow trade unionism (pocket union of employers),⁹⁵ ignorance, illiteracy, poverty and unawareness of general workers, threat of dismissal to unionists, scarcity

of employment etc. Corrupt leadership has made the trade union movement inefficacious. Worse even, non-CBA unions always stand against (carry out campaign, non co-operation) the Charter of Demands placed by the CBA in any establishment or sector.⁹⁶ Due to these factors, the workers remain reluctant to claim their social security and other demands. Incidence of punishment of the employers for their unfair or unlawful labor practices is very rare and the penal provisions in the law are either inadequate or absent in many cases.

1.3.l Forced labor

Work should be freely chosen and not be forced on individuals. The law fixes the regular working hours of a worker as eight hours and to a maximum of 10 hours a day on payment of overtime dues. If a worker is required to work beyond the regular daily limit (8 hours), he or she must have consented to this and the employer should inform such worker of the overtime at least two hours before the work starts.⁹⁷ This means that every overtime work is voluntary and the worker cannot be forced to do extra work without consent. But this rule is not complied by most of the employers. Majority workers have to work extra five hours as daily over time (13-14 hours a day). Such incidence of compulsory overtime work signifies that workers in Bangladesh are forced to work without consent. The existence of forced labor in the country is tantamount to flagrant violations of labor law as well as ILO conventions 29 and 105 prohibiting forced or compulsory labor.

Moreover, the employers are negligent about fair labor practice, exploit poor workers by forcibly employing them in dangerous and dirty manufacturing processes. They have to work without basic safety equipment (personal protective devices).⁹⁸ In terms of restriction on night duty, the Labor Act proclaims that no female worker is allowed to work without her consent between 10 o'clock at night to 6 o'clock in the morning. Though the law prohibits employers to engage women workers for the night duty, yet it relaxes this rule by allowing the same women workers to work if they consent. This leaves the scope of forced labor open for the employers. Forced labor is prohibited under the law and yet there is no penal sanction against this. In order to remove this limitation, specific provision should be included in sections 195 (unfair labor practice by the employers) and 291 (punishment for unfair labor practice) penalizing forced labor. Alternatively, such incidence can be punished under section 307 of the Labor Act which sets out punishments for violation of labor rights not specifically penalized anywhere in the Act.

1.3.m Child labor: Still a reality

The incidences of child labor exist in almost all labor sectors in Bangladesh. Child labor is usually defined by the Labor Act as

those children below 14 years of age. Using ILO Conventions 138 and 182, child labor can be categorized as: (i) children at work aged between 5-11; (ii) children in light work (age 12-14); and (iii) children in hazardous or worst forms of child labor (age 15-17). According to the National Child Labor Survey (2002-2003) and UNICEF, child labor means work that exceeds a minimum number of hours depending on the age of a child and type of work.⁹⁹ Such work is considered harmful to the children and should, therefore, be eliminated. [It is, however, difficult to figure out the precise estimate of the incidence of child labor in Bangladesh. Concentration of child labor is greater in rural areas than urban places. Informal or temporary employment is high among the working children at varying rates between 56.7% to 94.85%. Around 39% working children (0.26 million) are involved in hazardous work especially in manufacturing, construction and transport sectors.¹⁰⁰ The combination of temporary and full-time employment suggests that child workers are subject to intensive laboring in Bangladesh.

Social norms and economic realities mean that child labor is widely accepted and very common in Bangladesh. Many families are forced to rely on the income of their children for survival. Employers often prefer to employ children because they are cheaper and considered to be more compliant and obedient than adults. The employment of child workers is generally regulated by oral contract. The nature of work given to these children is the same as those given to adult workers. The presence of child labor indicates that the children do not enjoy equal opportunities in the society. They are among the most vulnerable groups at the workplace often being deprived of the basic work rights enumerated in the labor laws and core international labor standards.¹⁰¹ When children are forced to work, they are often denied their rights to education, leisure and play. They are also exposed to situations that make them vulnerable to trafficking, abuse, violence and exploitation. Millions of children are reported not to attend school although estimates vary. The most common hazards that the working children face at the work place include: exposures to dust, fumes, noise or vibration. Being subject to constant shouting, insult and sexual abuse from employer is also reported.¹⁰²

The presence of child labor in Bangladesh has created varying responses from the society. The Government of Bangladesh has taken different measures to eliminate child labor which include: legislation, policy formulation, plan of action, ratification of international conventions, providing institutional supports to the deprived children and the like.¹⁰³ Notwithstanding these measures, child labor is a complicated issue in Bangladesh in the sense that its withdrawal does not provide guarantee to the immediate end of vulnerability of child workers. Forced removal of child labor could be a

shift from one set of vulnerability to another if withdrawal is unplanned. For instance, female child labor may land in sex work if not provided with respectable livelihood opportunities. Similarly, male child labors may enter into hazardous acts, such as, rage picking which is worse than a motor garage.¹⁰⁴ Eventually, the elimination of child labor boils down to the issues of creating necessary schooling and livelihood opportunities for the withdrawn child workers.

1.3.o Enforcement of labor laws through inspection

The *Department of Inspection for Factories and Establishments* (DIFE) enforces all labor laws (corresponding to CLS) in Bangladesh through inspection services.¹⁰⁵ Inspection can play a vital role to identify the areas of non-observance of national labor laws and core labor standards by the factories and establishments. Its main objective is to ensure better working environment, occupational health and safety, social security, welfare and other basic rights of the workers.¹⁰⁶ However, factory inspection system in Bangladesh is subject to some vicious problems which are: acute shortage of sufficient Inspectors, limited resources, improper/ineffective inspection services, non-cooperation by the employers, failure of trade union leadership, lack of awareness and vigilance of general workers as well as socio-political context of the country. The dilemma cannot be remedied by singling out only one or two problems. Evidence shows that the Inspectors do not properly monitor the compliance of labor laws in the factories and establishments within their jurisdictions. The local office of the DIFE holds inspection mainly after the occurrence of any accident. Once the Inspectors visit any factory, they only talk to the employers ignoring the workers or their unions. Complaints of labor unions submitted to the Inspector against the violation of workers' rights in the factory remain unredressed for months. The Inspectors are alleged to submit prejudiced, incomplete or defective reports favouring the employers.¹⁰⁷

On the other hand, there are some real issues that desist the Inspectors to render effective inspection services. With a very small size of manpower, it is impossible for the DIFE (or any organization) to regularly monitor eighty million factories and establishments in the country.¹⁰⁸ The Inspectors suffer from logistic and transport shortages to carry out their duties properly. They also lack in 'legal authority' to immediately compel the owner of a factory to remove defects and dangers at the workplace. Worse even, the workers are generally unaware about their rights and are reluctant to co-operate with the Inspectors to find out real facts in the factory.¹⁰⁹ Again, employers do not also report all accidents and occupational diseases to the Inspector General of the

DIFE and, if at all, there exists serious under-reporting in the number of occupational injuries. Except for the large factories in the organized sector, the general tendency of the employers is not to report any injury/accident or grossly under-estimate the reported figures.¹⁰ As a result, the workers' rights and safety remain unprotected. The overall conditions of inspection activities in Bangladesh grossly violate the norms of core labor standards and ILO Convention 81 on Labor Inspection (Articles 3, 5, 7, 10, 11, 13, 14, 15 and 16). Effective inspection and monitoring can prevent deadly accidents or naked violation of labor rights at work.

1.4 Conclusion

The study has analyzed the extent of application of core labor standards into the labor jurisprudence of Bangladesh. The standard provisions seem to have translated into different forms of labor rights through national laws and policies but not at the same level. The principles of labor standards in relation to elimination of child labor, protection against forced or compulsory labor and protection against discrimination at workplace have translated partly in terms of both availability and effectiveness of corresponding labor law provisions. The standards on freedom of association and collective bargaining rights have almost fully translated to rights provisions in the labor laws in terms of availability. But the effectiveness parameter shows that all these standards have hardly translated. It has been revealed throughout the study that what standards would be promoted and what would not at the national level is hardly a function of what is promoted through core international labor standards. Rather, the enforcement of core international labor standards into the labor law system of Bangladesh largely depends upon how the trade-off between the conflicting interests of workers and employers are played and balanced. However, it appears that such trade-off is poorly balanced.

The overall compliance action shows that the core labor standards are not prioritized in the same way in national settings. Some standards within particular forms of rights

are promoted widely, while others are not promoted at the same level in terms of availability and effectiveness. Whereas, some specific contents of the core labor standards are complied with more than the others, certainly there are other forms of standards which though promoted at a higher level, have been rendered ineffective due to multiple defects of the prevailing industrial relation culture of the country. The labor relation system of Bangladesh has been proved ineffective due to its inherent shortcomings, exclusionary and exploitative nature, lacking mandatory mechanisms, inappropriate cost burden on workers, lengthy bureaucratic procedures and lacking worker-friendly remedial instruments. Such attributes have emerged due to the acts or omissions by the state and non-state actors, and verily prove to the fact that these are the areas where the conflicting interests of workers and employers are poorly balanced.¹¹

Since the labor laws of Bangladesh were enacted in conformity with the fundamental ILO Conventions and national constitution, non-enforcement of labor market regulations relates to non-compliance with the ILO conventions. Weak enforcement of national labor laws and ILO conventions often has the same impact as a statutory exclusion. The non-compliance culture will exacerbate the sufferings of workers, production costs of employers and hinder sustainable development of Bangladesh. The labor law system deduces an important responsibility on the State to ensure decent work for all. This responsibility calls for taking some pragmatic measures, such as, ensure workplace safety and effective implementation of core labor standards, inculcate development friendly political culture, uphold democracy and good governance. It is also important to undertake a comprehensive review of the prevailing labor law framework in order to amend the defective rules or enact a new legislative scheme along with spirit of the fundamental ILO Conventions. Effective implementation of national labor laws and compliance of core international labor standards can be a solution to eliminate bad working conditions at the workplaces in Bangladesh.

ENDNOTES

¹ For details of various aspects of core labor standards see, Asian Development Bank (2006) "Core Labor Standards Handbook", Manila, Philippines; p. 10; World Bank (2002) "Core Labor Standards Toolkit", Washington, DC.

² The following eight core conventions of the ILO (fundamental principles and rights at work) set out the legal framework of core international labor standards: i) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), ii) Right to Organize and Collective Bargaining Convention, 1949 (No. 98), iii) Forced Labor Convention, 1930 (No. 29), iv) Abolition of Forced Labor Convention, 1957 (No. 105), v) Mini-

mum Age Convention, 1973 (No. 138), vi) Worst Forms of Child Labor Convention, 1999 (No. 182), vii) Equal Remuneration Convention, 1951 (No. 100), and viii) Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

³ The codes of conduct signify that exporting suppliers of developing countries should protect the basic labor rights and ensure decent working conditions for their workers through socially and ecologically responsible behavior. For details see, Ameena Chowdhury & Hanna Denecke (2007) "A Comparative Analysis Between The Bangladesh Labor Law 2006 And 7 General Codes Of Conduct", Working Paper No-6, German Develop-

ment Cooperation (GTZ), Bangladesh, pp.1-3.

⁴ There are currently more than 1357 ratifications of eight fundamental ILO conventions. See, ILO Conventions and Recommendations, URL: www.ilo.org/global/standards/introduction-to-international-labor-standards/conventions-and-recommendations/lang-en/index.htm (accessed on 28 Nov, 2016).

⁵ ADB (2006) "Core Labor Standards Handbook", Manila, Philippines; p. 9.

⁶ David KUCERA (2002) "Core Labor Standards and Foreign Direct Investment", International Labor Review; Vol: 141, No: 1-2; at p: 31; URL: <http://www.ilo.org/public/english/revue/som->

- maire/141-1-2.htm (accessed on 15 Nov 2016).
- ⁷ Supra Note 5, at p.73.
- ⁸ No 8 of the UN Sustainable Development Goals (2015) requires the states to promote, *inter alia*, decent work for all. Core Labor Standards and decent work indicators are opposite sides of the same coin and are inextricably linked with poverty reduction and sustainable development. URL: www.un.org/sustainabledevelopment; Also supra note 5, p.54.
- ⁹ Jakir Hossain (2013) "Standards Rights Nexus in Action in Bangladesh: Transforming Labor Standards into Workers Rights", at p: 1, www.upf.edu/documents/3298481/3410076/2013-LLRNConf_Hossain.pdf/96a0964b-fc6b-4375-8fef-07400deddf48 (accessed on 24 November 2016).
- ¹⁰ Social justice, in an industrial set-up, means an equitable distribution of profits and benefits (acruing from business) between industry owners and workers and affording protection to the workers against harmful effect to their health, safety and morality. The ILO aims to establish universal and lasting peace based upon 'social justice'. It thus contemplates to i) remove injustice, hardship and privation of toiling masses of the world; and ii) improve their living and working conditions. ILO wants to ensure uniform labor standards in respect of all labor matters. See, *Preamble to the 1919 Constitution of the ILO*.
- ¹¹ Core labor standards are reflected mainly in the following provisions of the Constitution: i) prohibition of forced labor (Article 34), ii) freedom of association (Article 38), iii) discrimination on ground of religion etc. (Article 28), iv) equality of opportunity (Article 19, 29) etc.
- ¹² "Labor Law in Bangladesh", URL: <http://www.assignmentpoint.com/arts/law/labor-law-bangladesh.html>
- ¹³ The comprehensive nature of the Labor Act 2006 can be gleaned from its coverage mentioned in the Preamble. The Preamble signifies that the Act comprehensively deals with workers' rights.
- ¹⁴ By complying with the Labor Act 2006, export suppliers are only some steps away from achieving the core international labor standards. By adding few more aspects, they can fully comply with their specific buyers' code or the general codes of conduct. See, supra note 3 at pp: i,1, 8,14,15,16.
- ¹⁵ The ILO tries to ensure social justice for workers through 'Decent Work Agenda' and the ADB does this function through its *Social Protection Strategy*.
- ¹⁶ Fundamental rights of workers cover, *inter alia*, freedom of associations, right to collective bargaining, protection against forced labor, safeguard against worst form of child labor, equality before law, prohibition of discrimination at work, equality of opportunity in public employment, equal wages for equal works, and right against exploitation.
- ¹⁷ A report of the Department of Inspection for Factories and Establishments (DIFE) has recorded 44,347 violations of labor laws in the factories and establishments of Bangladesh in 2014. The largest proportion of violations (44 per cent) was related to the terms and conditions of employment while safety and health violations accounted for 27 per cent. The report recorded 10.8 per cent violations of labor laws in the readymade garment sector.
- For details see, "The Labor Inspection System in Bangladesh: Developments, Achievements and Challenges", DIFE-MOLE Annual Report, 2014.
- ¹⁸ In Bangladesh, as in other developing nations, the main economics in industries is centered on the employer's benefit. Little importance is focused on their liability to workers, society and the environment. Entrepreneurs often consider the regulatory compliances and related administrative costs deterrent to productivity. As such interests of the workers remain ignored.
- See, Jakir Hossain, Mostafiz Ahmed, Afroza Akter et al (2010) "*BANGLADESH LABOR LAW: Reform DIRECTIONS*", Bangladesh Institute of Labor Studies, Dhaka, Nov 2010, at p.10.
- ¹⁹ For detailed data on accidents in formal private sectors, see above note-17.
- ²⁰ The so-called 'freedom of contract theory' gives the entrepreneur class extreme leverage to determine the terms of employment, wages, working hours etc. Due to economic needs, individual workers cannot bargain with the employers for their subsistence wages and employment benefits. The employers, owing to their admittedly superior bargaining power, often take advantage of the weaker position of workers. They impose terms and conditions on the workers according to their own benefits.
- ²¹ ILO Convention 122 calls for member states to declare and pursue an active policy designed to promote full, productive and freely chosen employment (Article 1). On the other hand, Bangladesh's Constitution endorses that the State bears a fundamental responsibility to secure to its citizens 'guaranteed employment' at a reasonable wage (Art 15).
- ²² Kamala Sankaran (2007) "Labor laws in South Asia: The need for an inclusive approach", *Discussion Paper Series*, International Institute for Labor Studies, ILO, Geneva, at p.5.
- ²³ Ibid, at p: 3.
- ²⁴ Sethuraman, S.V.(1997) "Urban Poverty and the Informal Sector: A Critical Assessment of Current Strategies", ILO Development Policies Department, Geneva.
- ²⁵ Subramanian, K.(1967) "Labor-management relations in India", Asia Publishing House, Bombay; at p. 314.
- ²⁶ Sharma, A. (2006) "Flexibility, employment and labor market reforms in India", *Economic and Political Weekly*, pp: 2078-2085.
- ²⁷ Unni, J. (2001) "Gender and Informality in Labor Markets in South Asia", *Economic and Political Weekly*, pp: 2360-2377.
- ²⁸ See the Industrial Employment (Standing Orders) Act, 1946 and the Industrial Disputes Act, 1947 as examples of Indian circumstances.
- ²⁹ Asna Afzal (2006) "Pakistan, WTO and Labor Reform", *B.C. Int'l & Comp. L. Rev.*, Vol. 29, p. 116.
- ³⁰ In re, *Managing Director, Rupali Bank Limited vs. Md. Nazrul Islam Patwary and Others* the Appellate Division of the Supreme Court of Bangladesh held the similar view.
- Also, Senior Manager, Messrs Dost Textile Mills Ltd. and another Vs. Sudansu Bikash Nath 8 BLD (AD) 66 Sonali Bank v. Chandon Kumar Nandi 48 DLR (AD) 62.
- ³¹ Supra Note 22, at p: 3.
- ³² Labor Act does not apply to public sector employees, military staffs, domestic workers, agricultural workers, employees in education and research institutions, doctors and caregivers in NGO funded health centers and employees of hostels and messes. [Section 1(4) of the Labor Act 2006]
- ³³ 'Casual or temporary workers' are generally characterized as non-regular workers, flexible or easily replaceable workers, short-term contract workers, workers hired on oral contract or through contractors and sub-contractors, and informal workers.
- ³⁴ Casual or temporary workers are excluded from the scope of 'worker' under the Act on the ground that they have not fulfilled the requisite minimum eligibility period (say, six months in the case of maternity benefits). In order to enjoy or claim different rights as 'worker' under the Labor Act, the incumbent must be a permanent employee as the Act applies only to permanent workers.
- See, [Senior Manager, Messrs Dost Textile Mills Ltd. and another Vs. Sudansu Bikash Nath 8 BLD (AD) 66]
- ³⁵ Supra Note 22, at p. 4.
- ³⁶ [Managing Director, Rupali Bank Vs. First Labor Court 46 DLR 143]; [MD. Rupali Bank v. The Chairman, Second Labor Court, Dhaka 22 BLD (HCD) 143]; [Samir Malaker v. The Chairman, Divisional Labor Court, Khulna and another, 23 BLD (HCD) 417, 11 BLT (HCD) 380].
- ³⁷ Supra note 18; at pp: 10,15.
- ³⁸ Ibid, at p.10.
- ³⁹ 'Contract labor' is defined as those engaged by a contractor to work in the establishment of the principal employer.
- ⁴⁰ The proportion of contract workers rose from 40% to 62% during 1990-2002 in the manufacturing sector in Andhra Pradesh. During 1984-1998, the use of contract labor grew from approximately 7% of total work days to 21%. The growth was more marked in the case of the public sector enterprises, though in absolute terms private firms engage more contract workers.
- ⁴¹ While discriminating among the workers, factors that should be taken into account are: regularity of work, nature of the task, and skills required.
- ⁴² For instance, the Contract Labor (Regulation and Abolition) Act, 1970 empowers the Indian government to abolish contract labor if the jobs are perennial (long-term). This law is seen as reducing the flexibility of the labor market, as is at the centre of debates for labor law reform.
- ⁴³ It is necessary to clarify the concepts of 'formal sector', 'informal sector' and 'informal employment'. Formal sector means a sector that typically includes large scale manufacturing or service industries. This encompasses all full-time jobs with normal working hours, regular wages, and income sources on which income taxes must be

- paid. On the other hand, informal or unorganized sector is the part of an economy that is neither taxed, nor monitored by any government agency. Again, 'informal employment' is a kind of informal job which is not confined to any specific economic sector- either formal or informal. It may exist both in informal and formal enterprises. See URLs: www.businessdictionary.com; www.mopsi.nic.in; <https://en.wikipedia.org>.
- ⁴⁴ For details of the labor law concerning the informal economy see Sankaran, K. (2006) "Protecting the worker in the informal economy: The role of labor law" in G. Davidov; B. Langille (eds.): *Frontiers and Boundaries of Labor Law* (Oxford, Hart Publishing).
- ⁴⁵ ILO (2002) "Decent Work and The Informal Economy", Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labor Office, Geneva, at p.3.
- ⁴⁶ The Financial Express, 01 May 2014.
- ⁴⁷ Bangladesh Institute of Labor Studies (2014) "Social Protection of the Workers of Bangladesh: Needs for Tripartite Initiative", Dhaka.
- ⁴⁸ Supra Note 03, at p. 23
- ⁴⁹ Although majority workers in the construction sector are employed temporarily like other informal sectors, a very few have been working for moderately longer period (3-10 years). Source: Focus group discussion with workers at a workshop organized by Bangladesh Institute of Labor Studies in September 2016.
- ⁵⁰ "The informal economy", The Dawn, 22 February 2013; URL: <http://www.dawn.com/news/787833/the-informal-economy>; ILO "Informal economy in Pakistan", URL: <http://www.ilo.org/islamabad/areasofwork/informal-economy/lang--en/index.htm>; ILO(2008) "Informal Employment in Sri Lanka: Nature, Probability of Employment, and Determinants of Wages", ILO Asia-Pacific Working Paper Series; URL: www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@sro-new-delhi/documents/publication/wcms_123348.pdf. Also, see supra note 29.
- ⁵¹ Supra Note 22, pp. 4,5,6.
- ⁵² "Labor Laws in India", http://ncib.in/pdf/ncib_pdf/Labor%20Act.pdf, at pp. 9-27 (accessed on 19 Nov, 2016).
- ⁵³ Reinecke, G. and S. White (2004) "Policies for Small Enterprises: Creating the Right Environment for Good Jobs", ILO, Geneva.
- ⁵⁴ See *Indian Labor Code*, 1994 (Draft) prepared by National Labor Law Association.
- ⁵⁵ Supra Note 22, at p. 6.
- ⁵⁶ Other terms which are commonly found in the Labor Act 2006 and EPZ Workers Welfare Association Act are: Arbitrator, Award, Collective Bargaining Agent, Conciliator, lock out, Strike, illegal lock-out, illegal strike, industrial dispute, Settlement.
- ⁵⁷ It should be noted that in every country the law of the land prevails. But at times, the requirements of the codes are higher than the national labor laws and then, whatever standard is higher prevails. These issues are clearly stated in all codes of conduct.
- ⁵⁸ Besides complying with different codes, the suppliers must also adhere to all the requirements of national legislations. In emerging economies including Bangladesh, legal regulations do not always correspond to the domestic standards of buyer companies. So, it is gruelling for exporting entities to combine national legislations and buyer nominated social standards. See, Supra Note 3, at pp: 15,17.
- ⁵⁹ See, for instance, the *Emergency (Maintenance of Exports) Regulations 1992* and the *Labor Standards and Employment Relations Manual of Sri Lanka*.
- ⁶⁰ Oberai, A. et al. (eds) (2001) "Labor issues in export processing zones in South Asia: Role of social dialogue", SAAT, ILO, IIRA (New Delhi).
- ⁶¹ See, for instance, the exclusion of the right to form trade unions in export zones of Pakistan under the Industrial Relations Ordinance, 2002.
- ⁶² See, section 7 of the BEPZA Instruction-I of 1989.
- ⁶³ For example, instead of using the title 'Workers Association' (trade union) mentioned in the 2004 Act, the 2010 Act introduced the term 'Workers' Welfare Association' [S. 2(23)(24), Chapter II(Sections 5-32)].
- ⁶⁴ See, for example, Report of the CEACR, 77th Session, 2006 on the manner of interference by the Bangladesh Export Processing Zones Authority (BEPZA) and discrimination against active leaders of 'Worker Representation and Welfare Committees'.
- ⁶⁵ See, sections 5, 6, 17 of the EPZ Workers' Welfare Association and Industrial Relations Act 2010. Similar provisions also exist in the 2004 Act.
- ⁶⁶ See, section 14 of the EWWAIR Act 2010. The employer is prohibited to discriminate against a worker for supporting the application for union registration and such discrimination would be treated as unfair labor practice under section 33 of the 2010 Act.
- ⁶⁷ Despite the negative image of labor law system in the EPZs of Bangladesh, Nazneen argues that labor conditions in the EPZs have often been better, the compensation paid is higher, and the grievances are often fewer than outside the EPZs. Even the unions in the EPZ enterprises are as efficient as full-fledged trade unions in terms of bipartite negotiations (collective bargaining) with the employers. However, notwithstanding the cursory good practices, the industrial relation cultures in these Zones do not ensure universal application of core international labor standards and attract self-contradictions. For details of Nazneen's arguments See, Nazneen Ahmed "Elected Workers' Association in EPZs", the Daily Star (December 10, 2009); URL: www.thedailystar.net/news-detail-117211
- ⁶⁸ In both India and Pakistan, labor adjudications vary across the states due to federal governance structure. In India, disputes relating to non-payment of wages or compensation for injuries are dealt with by the provincial governments under different laws. There are also different sets of authorities dealing with civil and criminal remedies under the labor laws. However, the labor courts in Bangladesh do not suffer from such jurisdictional limitations. If a petitioner is a 'worker' within the meaning of the Labor Act 2006, his remedy lies before the labor court only and not before any other civil court.
- ⁶⁹ Supra Note 18, at p.18.
- ⁷⁰ Section 182(4) of the Labor Act 2006.
- ⁷¹ Interview of Advocate Joyal Abedin, practicing lawyer in the 1st Labor Court, Chittagong, Bangladesh on 03 May 2016.
- ⁷² Personal interview of the Chairman (presiding judge), 1st Labor Court, Chittagong, Bangladesh, on 03 May, 2016.
- ⁷³ Supra Note 20, at p.11.
- ⁷⁴ *Op Cit*
- ⁷⁵ Detailed rules regarding overtime work and payment can be found in Section 108 of the Labor Act 2006 and Rules 99, 102 of the Labor Rules 2015. According to section 108, 'piece-rated workers' (as opposed to wage earners) are entitled to get 'time rates' instead of overtime allowance. Time rates will be fixed as nearly as possible equivalent to the average rates of earnings of the piece-rated workers.
- ⁷⁶ Above note 18, at p.12.
- ⁷⁷ In the RMG sector, the employers often issue two copies of appointment letter: one for the worker and another for showing to foreign garments buyers. The workers get their copies which generally provide conditions less favorable to them. When required, the employers show original appointment letters to the foreign buyers which contain all best service conditions commensurating international labor standards. Source: Opinions of labor leaders in the FGD held on 13 February 2016.
- ⁷⁸ Supra Note 20, at p.17.
- ⁷⁹ Section 26(3) of the Labor Act 2006.
- ⁸⁰ The compensations to which a worker is entitled for job separation are: gratuity or compensation proportionate to the length of service, payment in lieu of notice and any other benefit. For details, see sections 20, 22, 24 and 26 of the Labor Act 2006.
- ⁸¹ Sections 20(2) and 22(2) of the Labor Act 2006.
- ⁸² The density of actual trade unions has become incredibly low in Bangladesh which is around only five (5) per cent of the total workforce of the country. In few sectors (i.e., garments and construction sectors) workers can exercise limited union type activities, such as, informal collective bargaining with the employers. See, BILS Report, September 2014.
- ⁸³ Opinion expressed by labor leaders, *inter alia*, Mr. Mojibur Rahman Bhuiyan, vice chairman of the Bangladesh Institute of Labor Studies, Ms. Lovely Yeasmin, president of the Bangladesh Ready-made Garments Workers Federation. Ref: Bangladesh Institute of Labor Studies (BILS) Report, September 2014.
- ⁸⁴ Dismissing a worker for union membership, or participation in union activities during or after working hours is a clear 'anti-union discrimination' as mentioned in the ILO Convention 98.
- ⁸⁵ On an average, workers in the private sector have to work about 12-14 hours a day at very scanty overtime rate.
- ⁸⁶ Interviews with union leaders in a focus group

discussion (FGD) held in February 2016.

⁸⁷ Since the construction sector is a contractor dominated sector, workers have to deal with individual contractors instead of an employer. See, *Supra* Note 18, at p.11.

⁸⁸ Industrial strike or lock-out is an extreme measure to substantiate the legitimate demands of workers or employers. But the main purpose of the Labor Act is to avoid such confrontational situation and establish a meaningful bridge between the employer and employees. Effective implementation of labor law can minimize the wastages of labor in strikes and lock-outs and thus help industrial development in the country.

⁸⁹ In the original version of the 2006 Act the requirement for strike was extremely high as the CBA had to obtain mandates of 75% (three-fourth) workers. However, the 2013 amendment to the Act tried to relax the pressures on the CBA by inserting 'two-third' in place of 'three-fourth' in section 211(1).

⁹⁰ Section 211(8) of the Labor Act 2006.

⁹¹ According to section 179(2), 30 per cent workers of the total number of employees in an establishment or group of establishments are required to be members of a union that desires to be registered.

⁹² Vide, sections 179(2), 202(5) and proviso to section 202 (15) of the Labor Act 2006, and comments on the 30% requirement in the *Report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), 75th session, 2004*.

⁹³ For public sector industries 10% of the officials of a trade union can be drawn from outsiders (who are not employees of the industry concerned). See, Proviso to section 180(1)(b) of the Labor Act 2006.

⁹⁴ The three main reasons for labor unrest in Bangladesh are: a) deteriorated owner-labor relation, b) absence of active and strong trade unionism promoting healthy industrial relations, and c) political conspiracy.

See, Uddin, M. Salim and Jahed, M. Abu (2007), "Garments Industry: A Prime Mover of Socio-economic Development of Bangladesh", *International Journal of Cost and Management*, Vol 35, no 1, pp. 59-70.

⁹⁵ Yellow trade unionism is glaringly seen in the transport sector in Bangladesh. The whole sector is controlled by an unholy alliance of some labor leaders from the ruling and opposition

parties. Their entente has led to the existence of only one national labor union in this sector, namely, the Road Transport Workers' Federation eliminating other sectoral unions. There is also no organized transport labor union at regional levels in Bangladesh, though there are some discretely operated local unions which cannot be termed as trade union in proper. Most of the transport owners were themselves workers once upon a time. The worker-turned transport owners always tend to use their political aides to forcefully grab the Association offices and thus take control of the business.

⁹⁶ The tradition of CBA is absent in India and instead, all unions in the establishment unitedly place their Charter of Demands to the employers. This seems possible because trade union leaders and union activities in India are generally driven by the common interests of the workers.

⁹⁷ Section 100 of the Labor Act 2006; Rule 99 of the Labor Rules 2015.

⁹⁸ In the ship breaking sector, for example, accidents frequently happen due to mishandling of processes by the ill-trained welding mechanics without using any personal protective equipment (PPE). This is so, as the yard proprietors look for cheaper ways to accomplish the job. They don't bother the safety of workers.

⁹⁹ Minimum number of working hours to constitute child labor in Bangladesh is for ages between 5-11: at least one hour of economic work or 28 hours of domestic hours per week; for ages 12-14: at least 14 hours of economic work or 28 hours of domestic work per week; and for ages 15-17: at least 43 hours of economic or domestic work per week.

See, Mustafa K. Mujeri (2004) "Bangladesh Decent Work Statistical Indicators: A Fact-Finding Study", International Labor Office, at p: 17; and "Child labor in Bangladesh", UNICEF; URL: http://www.unicef.org/bangladesh/Child_labor.pdf.

¹⁰⁰ The National Child Labor Survey 2013 has estimated 3.45 million working children in Bangladesh between the ages 5-17 years comprising 1.70 million who are child labor by legal definition (child labor is a narrower concept than child worker or economically active children). See, Bangladesh Bureau of Statistics, "National Child Labor Survey 2013".

¹⁰¹ *Supra* Note 18, at p.11.

¹⁰² See above note 100.

¹⁰³ The Government's endeavor to eliminate child

labor is aptly reflected in the formulation and enactment of the National Child Labor Elimination Policy 2010, the Children Act 2013, National Children Policy 2011 and the National Plan of Action.

¹⁰⁴ Pertinent example could be the post-Harkin bill scenario in the RMG industries in Bangladesh. In 1992, American senator Tom Harkin introduced a bill called U.S. Child Labor Deterrence Act. It created fear and many child workers were retrenched from the garment industries in Bangladesh. Owing to the lack of alternative livelihood opportunities the post-retrenchment scenario was far worse to the child workers. Ref: The Child Labor Survey, 2013.

¹⁰⁵ Currently, the DIFE operates inspection activities in forty-nine (49) listed industrial sectors (formal economic sectors). But in case of non-listed or informal sectors, DIFE does not have any monitoring operation. URL: <http://www.dife.gov.bd>.

¹⁰⁶ For a clear idea about labor inspection in industry, see article 3 of the ILO Convention 81 and *supra* note 99 (Mujeri, 2004), at p: 42.

¹⁰⁷ Opinion expressed by labor leaders in a focus group discussion in Chittagong, Bangladesh. February 2016.

¹⁰⁸ An estimated 130 years will be required to effectively inspect and monitor all factories in Bangladesh with such meager number of staffs. In Germany, 6000 Inspectors render inspection services for the benefits of 40 million workers. Whereas, Bangladesh has created posts for 993 Inspectors and few officers (225) carry out the actual inspection programmes for the sake of 60 million workers. At least 2500 inspection staffs are required on urgent basis to do the necessary activities.

Opinion of the Inspector General of the Department of Inspection for Factories and Establishments (DIFE) in a seminar organized by the Bangladesh Institute of Labor Studies (BILS), date 27 October 2016.

¹⁰⁹ Focus group Discussion with the Inspectors of Chittagong office of the DIFE on 22 October 2016.

¹¹⁰ According to the Labor Act 2006 (sections 81, 82) and the Labor Rules 2015 (Rules 69-71), employers of factories with 10 or more workers are responsible to report all accidents (*accidental injuries or deaths*) and 34 listed occupational diseases to the Inspector General of the DIFE.

¹¹¹ *Supra* note 09, at p: 22.