



Sonargaon University (SU)

Research Monograph

On

“A Study on Labour Rights for Women in Readymade Garments Industries of Bangladesh”

Research Monograph Submitted for the partial fulfillment of the award of the degree

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LL.B (Hon’s)

Department of Law

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Submitted To

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Letter of Transmittal

To

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Subject: Submission of Research Monograph on “**A Study on Labour Rights for Women in Readymade Garments Industries of Bangladesh**”

Dear Sir,

This is a great pleasure to submit the Research Monograph on “**A Study on Labour Rights for Women in Readymade Garments Industries of Bangladesh**” as a partial requirement for the fulfillment of my LL.B course under the Department of Law of the Sonargaon University (SU).

I have given due efforts to make this Research Monograph as fruitful one and to make it as informative as possible. I hope that this paper will not be the formality of academic course completion rather it will be a source of information for other purpose on this topic.

Yours sincerely

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Declaration

I do hereby declare that the Research Monograph Title “**A Study on Labour Rights for Women in Readymade Garments Industries of Bangladesh**” prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL.B (Hon’s) Degree. This is an original work of mine. No part of this research, in any way or in form, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

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Supervisor Certificate

This is to certify that the work presented in this dissertation is based on the work, carried out by the author herself under my supervision in Department of Law, Sonargaon University (SU).

It is also certifying that the work presented here is original and suitable for submission as the style and contents, for fulfillment of LL.B. program.

.....
Naimul Razzaque

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Thank you

Riaz Uddin

ABSTRACT

The Garment industry is the most important source of foreign currency. Bangladesh has about 2,500 garment factories and 10 million people are dependent on it directly or indirectly and about 80 percent garment workers are women. The garments sector has become an important institution for reduction of poverty. But the workers face many problems during working time and outside. The foreign investors are only concentrating on their local business. They do not talk about the rights of the workers. The Government is also not interested to the point. Not only that, the garments owners are pocketing a huge sum of money but they do not think about the welfare of their labour. As a result the workers have to work under an unfriendly environment. No friendly relationship exists between the workers group and owners. Sometimes workers need to sacrifice their lives too. Every year we can see a lot of garments workers die in several accidents that take place in the industries. Sometimes fire explodes and takes away human lives, sometimes buildings collapse and destroy that kill workers. Day by day the amounts of workers' deaths are increasing. But after a few days later of the accident, everyone forgets the tragedy. It is the present scenario of our country. Again the workers do not get paid with their monthly wages and bonus duly. In fact, they build our economy with their hard labour but they do not get proper rights.

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Chapter 1

INTRODUCTION

1.1 Introduction

In Bangladesh, the garment industry drives the country's economic growth, contributing to an impressive 6 percent growth rate for nearly a decade. Bangladesh is now one of the world's leading clothing exporters, second only to China, and the garment industry employs 3.6 million workers out of a total population of over 150 million. Most of the nation's, 4,500 factories are concentrated around the capital, Dhaka, and attract thousands of rural residents in search of jobs and a better life for their families (<http://asiafoundation.org/media/view/slideshow/66/bangladeshs-garment-workers>).¹

The term “garment” is used interchangeably with “apparel” and “clothing”. “Garment” includes readymade woven garments as well as knitwear and hosiery. The products of the garments industry are very diverse, ranging from industrial work-wear basic shirt. The concept of “textile complex” or “textile chain” includes the ginning of fiber, spinning yarn, weaving fabrics and operations like dyeing, processing, printing, finishing the fiber and finally making the Readymade Garment (RMG). The final product is garment. There are about 5000 readymade garment factories in Bangladesh, out of which 2100 factories are in Dhaka city and 860 are in Gazipur (http://www.garmentbangladesh.com/overview_bangladesh_garments_industry.php).

Since Bangladesh is an agricultural country its economy is strongly depended to the agriculture. But nowadays with the passage of time due to industrialization people are moving forward to the cities in search of works. Most of them are poor and uneducated. So, they can be used as labour of cheap cost. As a result due to increase of garments sectors those uneducated and poor people are joining to the garments factories for the purpose of their livelihood. Bangladesh is in number one position in a scale of cheap rate labour. So, for that reason the foreign buyers are concentrating to Bangladeshi Garments Industries for preparing their products. The country is also earning a great deal of revenue when the owners export their garments products to the foreign countries. It's no doubt a

¹ Arun Mojumdar and Shamim Siddique, *Panjeree Essay Writing*, 4th ed. (Dhaka Panjeree Publications Ltd. 2007).

great contribution to our economy. But it is a matter of great sorrow that the workers do not know about their rights they should be entitled to. As they are ignorant and poor they have to undergo with massive problems at the time of work. They do not get the proper right as it should be. They cannot raise their demand as there is no association to ensure their rights. Rather sometimes there are also some possibilities of losing jobs (Arun Mojumder and Shamim Siddique, *Panjeree Essay Writing*, 4th ed. (Dhaka: Panjeree Publications Ltd., 2007), p.35).

1.2 Statement of the problem

The Garment industry is the most important source of foreign currency. Bangladesh has about 2,500 garment factories and 10 million people are dependent on it directly or indirectly. An about 80 percent garment workers are woman. The garments sector has become an important institution for reduction of poverty. But the workers face many problems during working time and outside.²

The foreign investors are only concentrating their local business. They do not talk about the rights of the workers. The Government is also not interested to the point. Not only that, the garments owners are pocketing a huge sum of money but they do not think about the welfare of their labour. As a result the workers have to work under an unfriendly environment. No friendly relationship exists between the workers group and owners. Sometimes workers need to sacrifice their lives too. Every year we can see a lot of garments workers die in several accidents that take place in the industries. Sometimes fire explodes and takes away human lives, sometimes buildings collapse and destroy that kill workers. Day by day the amounts of workers death are increasing. But after a few days later of the accident, everyone forgets the tragedy. It is the present scenario of our country. Again the workers do not get paid with their monthly wages and bonus duly. In fact, they build our economy with their hard labour but they do not get proper right. This research will clarify the rights of the garment workers and will provide the legal remedies for violation of their rights. I believe that, this research will be very helpful for the readers and the garment workers. They will be able to know about their rights remedies

² Helal Uddin, *Bangladesh Labour Law*, 3rd ed. (Dhaka Standard Books Mart, 2013).

and process of enforcement of their rights The defines of any study will be helpful for the legislative to repave the legislating to garment workers.³

1.3 Research Quotation

It is to be mentioned that there are a little research contribution in the field of Violation of the Rights of Garments Worker in Bangladesh. This study in an attempt of mitigate to research gap. Given emphasis in these problems, the following research questions are found relevant of this study:

- What is the nature and extent of Violation of the Rights of Garments Worker in Bangladesh?
- How far the existing Violation of the Rights of Garments Worker fulfilled the demand of situation?
- Why the existing divorce does not fulfill the present demanded situation?
- How can be the Rights of Garments Worker be made harmonies and standard for Bangladesh

1.4 Objectives of Research

Core objective:

The main objective of this study in to Violation of the Rights of Garments Worker in Bangladesh.

Specific objectives:

- i. To evaluate the present violation of the rights of garments worker in Bangladesh.
- ii. To clarify why the present laws cannot meet up the demand level up to expectation and to find out the loopholes of existing laws.
- iii. To suggest and adaptable solution to enrich the laws and to upgrade implementation level of the laws.

1.5 Methodology

This research is a mixed method in nature. Content analysis method have been be used to analyze the existing laws. Both qualitative and quantitative data have been used for validly and reliability of research work. Necessary data for this research have been taken

³ Arun Mojumdar and Shamim Siddique, *Panjeree Essay Writing*, 4th ed. (Dhaka Panjeree Publications Ltd. 2007).

from both secondary and primary sources. The primary sources of data have been taken from The Bangladesh Labour Code, 2006, Minimum Wages Ordinance, 1961, Bangladesh Labor Act 2006, Health and Safety Act 1992 and other related legislations. The secondary sources of data have been taken from relevant books, journals, reports, published or unpublished thesis, dissertation, newspaper, different websites and data from various official and unofficial sources.

1.6 Review of literature

Some of the books and articles published are reviewed below-

a) Mir Abdul Halim, Bangladesh Labour Laws, Sufi prokashoni, Dhaka, Bangladesh, First published: July- 2011.

This book is not sufficient to know deeply about the Labour Laws. This book has not explained the right of freedom of speech. There is no explanation to the section. Explanation should be added for clear explanation.

b) Md. Abdul Halim, The Bangladesh Labour code- 2006, first published: July- 2008.

This book is very helpful for the students because it has clear explanation, comment and note of the section.

1.7 Scope and Limitation

This research is on the Garment workers in Bangladesh. This research will define the workers and will describe the importance and necessity of the Garment workers in Bangladesh. This also will prescribe the rights and remedies of the Garment workers. However it has limitation that is it will concentrate only on the garment workers in Bangladesh, not for other workers.

Convention, constitutional law, garment related people, the labor court etc. and secondary sources are books, journals, articles, newspapers, internet and so on.

Chapter 2

RECENT STATUS OF BANGLADESHI GARMENTS WORKER

2.1 Garments Worker of Bangladesh

The Bangladeshi garment sector is a leading garment manufacturing industry in the world that has been growing constantly during the last decades. Today the garment sector represents the 80% of the national export and counts USD 19 billion revenues; these numbers describe the sector as the most important manufacturing industry in Bangladesh. The numbers are also outstanding when it comes to number of workers employed, about five millions, and number of factories about five thousands of different sizes. The cheap labour cost attracted many international brands that chose the Bangladeshi factories to produce their products for the European and US markets that take up to the 60% and 20% of the total export. A garment factory worker has to do many works such as cutting, embroidery, printing and stitching, washing & finishing. Quality Control, Mass Production and rate control etc should be ensured. With the help of advanced machinery and proficient labour workers are capable of producing stylized garment product with perfection (<http://www.fairwear.org/ul/cms/fck-uploaded/documents/countrystudies/Bangladesh/Working>).⁴

Bangladesh is the third largest exporter of garments in the world to the U.S., following only China and Vietnam, and a large exporter to Europe. Bangladeshi garment workers are the hardest working women and men in the world. Nowadays huge some of garment factories are available in Bangladesh. As this factories export products in the foreign markets, workers are necessary to be employed for the purpose of job. Usually men, women of tender age to old are seen to be engaged in working in garment. But most of them are female workers. Garments workers life is very difficult. Bangladesh earns million dollars from foreign countries for these garment workers. But workers hardly get the proper respect. But it is a matter of great sorrow that they are paid lowest minimum wages in the world.

2.2 Statistics of Female Workers

⁴ Anu Mahammud, Bangladesh Garments: Crisis and Challenges, *Jahngirnagar University Journal*, vol.I, (March 2014).

The presence of women in the garment industry of Bangladesh is a means of empowerment or just a continuation of structural violence. Due to the patriarchal system in Bangladesh, structural violence against women has been an ongoing problem throughout the country's history. The structural violence is still present in the society and in the garment sector, which hampers the social and economic empowerment of women. Due to their joining the garment industry and due to extremely long working hours, female workers feel that their social status is decreased. Though women are getting benefits from the garment sector in terms of their income, the negative sides outweigh the positive sides of women workers involvement in the garment sector. As a result, it impedes the transformation of structural violence in society and thus, social and economic empowerment of women through their enrolment in the garment industry of Bangladesh is paradoxical.⁵

Although in garments both male and female workers can be found, most of them are women. A recent statistics, tells us, 3.6 million workers are working in the Readymade Garment (RMG) units, of whom around 80 per cent are women. Not only that even when Rana Plaza was collapsed the most of the number of injured and died were female

2.3 Current Scenario of GDP and Garment of Bangladesh

The Gross Domestic Product (GDP) in Bangladesh expanded 6.30 percent in 2014 from the previous year. Bangladesh considered as a developing economy. Yet, almost one-third people live in extreme poverty. In the last decade, the country has recorded GDP growth rates above 5 percent due to development of microcredit and garment industry. Although three fifths of Bangladeshis are employed in the agriculture sector, three quarters of exports revenues come from producing readymade garments (<http://www.tradingeconomic.com/Bangladesh/gdp-growth>).

Since the liberation war of 1971 the Scenario of GDP of Bangladeshis changing gradually. Now the biggest contributor of GDP is the Garments sector. Economic growth of Bangladesh is comprised of three main sectors. The major sectors in this issue that are playing important role over our GDP are:

- Agriculture (18.68% of total GDP)

⁵ (<http://www.ub.uit.no:8080/munin/bitstream/handle/10037/7159/thesis.pdf?sequence=2>).

- Industry (28.61% of total GDP)
- Service (52.76% of total GDP)

Real GDP Growth Rate of Bangladesh (2006-2014)



So, during last eight years the GDP of Bangladesh is moving from 5.7~6.7.

2.4 Violation of the Rights of the Garments Worker in Bangladesh

In Bangladesh the rights of garment workers are violating in many ways. Here we will find no such observance of rules and laws of the country. The workers are also not conscious about their rights. As a result, they are losing rights now and then. In many ways the worker's rights can be hampered. Again the owners do not follow the laws. Here are some examples:⁶

2.4.1 Appointment of un-mature Girls and Boys

In a garment factory all workers must be matured in age. This rule has been made to reduce the working of juvenile workers. It has been ordered in section 34 of Bangladesh Labor Code not to recruit any un-matured boys and girls in any organization (*Bangladesh Labour Code, 2006*, s. 34.). It has been said a child under the age of 14 years cannot be sent for work or cannot be engaged in working. This is a safety method provided for the child under the age of 14 years old. Only adolescent can be appointed to working for a restricted way i.e. sufficient training for educational purpose but as per section 43 of the Act it can be guaranteed that no adolescent can be appointed for underground works. But in Bangladeshi garments there is a huge sum of workers who are known as juvenile

⁶ *The Financial Express* (5 March 2015), p.1.

workers in the eye of law. It is because the financial position of their family is not developed and so they can be appointed at a lower cost (Md. Abdul Halim, 2006).

There is a provision here; if the inspector thinks fit he may send the worker for the medical test. It has been prescribed by the law that a juvenile worker will work 7 hours daily and 24 hours in a week. But a juvenile worker whose age is below 12 can work only for the purpose of education or any other purpose that does not hamper his health (*Bangladesh Labour Code, 2006*, s. 38.).

2.4.2 No Safety for the Pregnant Workers

It can be said that a woman must not be engaged in any working before 8 weeks of her delivery. In that period she must get fixed wages and maternity allowance. At that period she should be paid her accepted wages of three months which will be divided by her actual working days

But in Savar, Rana Plaza tragedy we have come to know that two months have given birth to two babies on the 3rd floor of the collapsed 'Rana Plaza' of Savar

Although the Labour Act 2006 was amended, women do not get maternity holidays as per the law. Now, many working foundations have raised a demand to extend maternity holidays to 6 months for the female workers. But BGMEA was not interested with this proposal⁷

As per section 48 of the Act, it has been guaranteed that a pregnant worker shall be paid of daily, weekly and monthly average wages as may be calculated wholly in case. In this regard a pregnant worker's service cannot be discharge, dismiss, remove or terminated within a period of six months before and eight weeks after delivery.

If the women are given their rights they must not be allowed in that garments at the time of pregnancy. This no doubt means that workers are not getting their rights in appropriately. The women are not getting their maternity allowance and vacation at the time of pregnancy.

⁷ *The Daily Prothom Alo* (November 30, 2014), p.3.

2.4.3 Disobeying the Rules of Working Environment

There are some certain criteria in working condition. Every employer is bound to provide sound working environments for their employees to different rules and law. In working environment the following criteria's should be provide by the environment for employees of his/her organization. The Bangladesh Labour Code, 2006 has defined many rules regarding working environment of the workers. This are- Section 51 to 60 Bangladesh Labour Code, 2006 describes the rules regarding the health of the labours. It suggests that every organization must keep neat and clean. Specially floor, working room and every working need to be washed at least once every week. Colored furniture needs to be re-colored & re-burnished⁸

But the garment factories of our country do not follow these rules. Sometimes there exists disposal of wastages and effluents, dust and fume, overcrowding etc.

2.4.4 Air Circulation and Temperature, Safe Drinking Water, Latrine and Urinal

From section 52 of Bangladesh Labour Code, 2006 we have to know that in every working room of a garment industry there must have to remain arrangement of sufficient air circulation and in a safe condition too. Fire broke out in Tazreen Fashion factory that killed at least 117 people and 200 were injured In *ASK, BLAST and Others v. Bangladesh and Others* ['KTS Garments Fire' Case] case the factory of KTS Textile and Garments situated at the BSCIC Industrial Area in Chittagong caught fire and 57 workers died. Many of the workers could not escape as the gate was closed by the order of management and no emergency escape. The petitioners argued that the management was responsible for the death and injuries and this is a clear violation of Articles 31 and 32 of the Constitution (*The Constitution of the People's Republic of Bangladesh, 1972*). However, the HCD directed the KTS Garments to show cause, to submit an investigation report, to pay proper amount of compensation and to ensure a medical treatment to the victims. The Court observed that a National Committee should be established with the laws on fire safety. In the amendment labor code it was said that a garments having only 100 workers are in obligatory due to make insurance policy. The IDR chairman said that, if owners disobey the rule they must be punished (*AKS, BLAST and Others v. Bangladesh and Others*, W.P.No. 2019 of 2012).

⁸(*Bangladesh Labour Code, 2006, s. 51.*

2.4.5 No Specific Time for Eating

In reality the workers can hardly get time for breakfast in the morning. They take breakfast and eat them secretly at 10 or 10.30 am during working time. So, the workers of Rana Plaza were supposed to take their last food in the previous day of the accident. If a special time table was maintained, more lives could be saved.⁹

2.4.6 Satisfied with Low Cost

It has been said before that the garment workers of Bangladesh are paid with a low amount as their monthly payment. With that tiny wages the workers can hardly live their livelihood. The women of urban areas are satisfied with the low amount of wage. Again the cost of livelihood is increasing day by day. So, in a poor family while the husbands do other jobs, the wives do job in the garment with tiny wages.

2.4.7 Irregular Payment of Monthly Wages and Overtime Bills in Due Time

According to unofficial sources, only a few RMG owners pay the monthly wages and overtime bills timely and concentrate to welfare of the workers.

2.4.8 Delay of Payment

In many factories the owners deliberately keep at least two month's wages and overtime bills of the workers in arrears. The management does hiring and firing of workers randomly and retrenched workers, in most cases, are not paid their dues.

2.4.9 Absence of Weekly Holiday

Further the absence of weekly holiday the workers; their families and their children are all being several affected both mentally and physically.

2.4.10 No Minimum Safety

Subsequent accidents have proven that many garment factories in Bangladesh have no minimum safety measures, not even the required number of fire extinguishers. There are more than 227 garment factories in Dhaka along do not have emergency exits (*The Daily Star*, (November 25, 2014), p.3).

⁹ *The Daily Prothom Alo* (January 8, 2015), p.13

2.4.11 Sexual Harassment

Sexual harassment is regarded as an important source of mental stress for female workers. The occurrence of sexual harassment ranges from insults directed at a person's gender, suggestive comments, or language, and demeaning remarks to unwelcome touching and grabbing and other physical assaults. These types of sexual harassment were underreported. As female workers were very shy to disclose any information on this subject, it remains unpublished most of the time. Moreover, unmarried workers are always afraid of disclosing any information on sexual harassment since it hampers their marriage possibility. From a survey it can be shown that only 2 percent of female workers encountered with sexual harassment in the factory. But in reality, it discloses the fact that sexual harassment is largely prevalent among the young garment workers. However, sexual harassment is not limited in the workplace. It extends to home too. The police, who could have protected them from this harassment, were themselves involved in harassing the women garment workers (<http://www.garmentsbangladesh.com/overview-bangladesh-garments-industry.php>).

2.4.12 Improper Structure of Buildings

Most of the buildings of garments in our country have not been constructed properly. As a result, an accident occurs and takes the lives of innocent workers. According to unofficial sources, 90 per cent of all garment factories in Bangladesh lack proper industrial approval. Thousands of buildings escape scrutiny because the building inspection system is as old and decrepit as the buildings themselves.

Due to improper construction of 'Rana Plaza' at Savar, killed about 1127 people and more than 3,000 workers were injured.

2.5 Cause of the Fire

The fire was started when an electrical transformer exploded. The head of the fire department speculated that the fire was fanned by chemicals and other flammable products stored in shops. The density of the residential area affected made it difficult for firefighters to quell the blaze. Also, the narrow lanes of Old Dhaka and staircases of old buildings made it difficult for fire service equipment to enter the area.

2.6 What will happen to the Injured Workers in their Rest of Life?

About 112 were killed from the fire of Tazreen Fashion. In the havoc of Tazreen Fashion about 200 workers were seriously injured. The search for the dead ended on 13 May with the death of 1,127. In savor Rana Plaza approximately 2,500 people were injured. It means about 2,500 families have become out of works now. Their life is in danger. Government declared to give 20,000tk to the family of dead workers. So what will happen to their rest of life?

Many have lost their hands or legs. Of them a worker named Alamgir, where his wife was still sitting behind his cabin. She did not eat anything in the breakfast as she had no money. Her husband's was still out of sense. So, what will happen to their life in a burning question?

Little girl Monira, her mother was a worker of Rana Plaza. She was dead when she was rescued by the volunteers. Her mother promised to gift her with a red kamiz, red fita and red lipstick. Still the little girl is waiting for the gift from her mother. But what will happen to this family? Now her 14 years old girl needs to join garment's work for the sake of livelihood¹⁰

2.7 Development of Garments Industry in Bangladesh

The Ready Made Garments (RMG) sector plays an important role in enhancing Bangladesh economy. The sector draws global attention for its quality production and huge employment women workers. From decades after decades we have seen the dependence on Garment industry growing in Bangladesh. In 1983, there were about 50 garment factories in the country. In 2004, this number had jumped to 4,000. In early 2009, there are about 4500 garment factories in Bangladesh. But now they are more than 5,000 on number. Currently, this sector employs approximately 3.6 million workers, of whom almost 80% are women (<http://www.amrc.org.hk/node/1153>).

For Bangladesh, the ready-made garment export industry has been the proverbial goose that lays the golden eggs for over fifteen years now.

2.8 Significance of RMG Sector in Bangladesh

¹⁰(*The Daily Prothom Alo* (March 2, 2015), p.3.)

The RMG sector has become the lifeline of Bangladeshi economy creating opportunities for jobs, income and exports. More than 10 million people, directly or indirectly, depend for their livelihood on this industry, which accounts for 40% of industrial employment. This very dynamic sector has become the main source of direct and indirect employment as well as of foreign exchange earnings (World Bank, 2012). The little small-scale industry that started its journey in the late 1970s has now become the backbone of the economy of the country. This industry alone contributes about 75% of the total exports. In the last financial year the total export volume of the RMG sector was more than \$9.5 billion. In terms of GDP, RMG's contribution is highly remarkable; it has become 13% of GDP which was only about 3% in 1991. Bangladeshi RMG industry has got a considerable share of the international markets. In 2006 Bangladesh became the 4th largest supplier of garment products in Europe. From 2004 to 2005 Bangladesh's share in US market increased from 2.42% to 2.69% (<http://www.Worldbank.com/bangladesh/gdp-growth>). Whenever the country is criticized for its high level of corruption and confrontational politics, its garment industry is held up as a success story. The industry leaders unite together to get support and benefits from the government, but they are not equally willing to look after the welfare of workers. In the RMG industry in several places in Bangladesh workers are paid their salaries two months late. Overtime is imposed and in some cases not rewarded.

Chapter 3

Violation of Garments Workers in Bangladesh

3.1 Freedom of Association

The day before the Rana Plaza building collapsed, cracks in the walls were discovered and the whole building was evacuated. The shops and the bank on the lower floors immediately closed, but the garment workers operating on the top floors were commanded to go back to work. A worker who survived the accident revealed that the managers of the factory threatened to withhold a month's pay from anyone who refused to come to work the next day. (Bloomberg 2013) Not a single worker that died in the accident belonged to a union as unionizing has been deliberately made as difficult as possible in Bangladesh in order to keep workers compliant. It is thus fair to speculate that if the garment workers had belonged to a trade union and had a collective voice to refuse to go back to work inside a dangerous building, the death toll could have been significantly lower.¹¹

Under domestic and international pressure, the government made reforms to the country's labour law in July 2013. Altogether 87 sections of the Labour Act 2006 were amended, the most significant changes concerning the formation of trade unions. The new amendments erased the previous obligation to inform employers of the names of union leaders at the time of registration of a trade union. The new law also allows workers to seek advice from outside experts during collective bargaining. However, for the government to register a union, at least 30 percent of the workers in an establishment, which can constitute multiple factories, are required to join. (ILO 2013) ILO reports that the number of unions grew significantly from 132 in 2012 to 437 in 2015, though the current number of unions accounts for just 5 percent of all the garment factories in Bangladesh. (ILO 2015, 6)

Targeted abuse by factory management continues to hinder the expansion of trade unions in Bangladesh despite the relaxation of controls on the formation of unions. HRW reported a case in which union leaders at a factory near Dhaka tried to set up a union in

¹¹ *The Constitution of the People's Republic of Bangladesh, 1972.*

January 2014, but in doing so they were brutally assaulted and their attempts led to scores of workers being fired. One of the union leaders was beaten while pregnant, forced to work at night, and eventually dismissed, without receiving all the wages she was owed, only because she wouldn't back down on unionizing. The President of the Garment Workers' Unity Forum has been arrested and jailed seven times for protesting against wages. These incidents are examples of dozens of cases in which union leaders have been threatened, attacked or fired for their legally entitled rights. (HRW 2015)

3.2 Forced Labour

Forced labour can be described as work that people are forced to do against their will under the threat of some form of punishment. Slavery, trafficking and bonded labour are typical examples of forced labour, however so is compulsory overtime. In Bangladesh typical examples of forced labour involve young women working for sixteen hours a day seven days a week without appropriate compensation (War on Want 2015). In September 2013, the BBC reported garment workers being locked inside a factory for nineteen hour shifts without the workers being permitted to leave the factory (BBC 2013). Locking workers inside a building can have catastrophic consequences, as proven by the fire accident at Tazreen factory.

The labour law in Bangladesh states that a working day should be no longer than 8 hours, however overtime is allowed subject to the provision that the whole day does not exceed 10 hours. The law allows a weekly day off and therefore a working week of maximum 60 hours. The law also states that women are not allowed to work in an establishment between the hours of 10pm and 6am without their consent. (ILO 2013)

The ILO Forced Labour Convention No. 29, ratified by Bangladesh in 1972, was introduced to put an end to the use of forced or compulsory labour, that is "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." (ILO 2015) The UN International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to the enjoyment of just and favourable conditions of work which ensures "rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays." Despite national legislation as well international

human rights conventions violations against labour law in Bangladesh continues to be the norm and not an exception. (OHCHR 2015)

3.3 Discrimination

Discrimination in the female-driven garment industry is a common yet hidden issue. Female workers are frequently subjected to offensive and sexually explicit language, hitting, slapping on heads and pulling of hair because of making a mistake, failing to meet a production target, asking for leave, working slowly because of illness or arriving late. Women have been hesitant to speak up about harassment because they feel ashamed and fear risking their reputations or damaging their marriage prospects. Reporting of verbal and physical abuse and sexual harassment thus continues to be unusual although according to Fair Wear Foundation, approximately 60 percent of the factory workers have experienced some type of harassment or abuse at work. Although the provisions in the amended labour law prohibit discrimination based on sex and disability, the law does not include any specific measures to tackle sexual harassment of women.¹²

Women are often denied their rights to maternity leave, although the labour law in Bangladesh allows a total of 16 weeks paid leave. A survey conducted by War on Want which interviewed 988 female garment workers revealed that 474 were denied any provision while being pregnant and about 50 percent said that although they weren't obliged to do nightshifts, they still had to work overtime during pregnancy. Lack of knowledge about basic rights is apparent as the survey revealed that two thirds of the women were unaware of their legal entitlement to maternity leave. The Bangladesh labour law requires that an establishment with more than 40 women employees must have a suitable room for children under the age of six. As many as 641 workers reported that no such facilities have been provided which left the women with no other option but to send their children to stay with their parents in rural areas of the country. Pregnant women are also routinely fired in pursuance of avoiding costs.

Bangladesh has ratified the ILO Convention No. 111 on Discrimination in Respect of Employment and Occupation. Ratifying states commit to adopt legislation which prohibits all discrimination and exclusion on any basis including race or colour, sex,

¹² (Fair Wear Foundation 2013, 9, 11)

religion, political opinion, national extraction or social origin in employment. (ILO 2015) The UN convention on the Elimination of All Forms of Discrimination against Women, which Bangladesh ratified in 1984, is an instrument to ensure the elimination of all acts of discrimination against women by persons, organizations or enterprises. However, upon signing the treaty, Bangladesh stated that it does not consider as binding upon itself the provisions of article 2 and 16 (1) (c) as they conflict with Sharia law. Article 2 compels ratifying countries to renounce engaging in any practice of discrimination against women and to ensure that authorities shall act in compliance with the obligation. It also obliges adopting appropriate legislative and other measures that condemn discrimination against women in all its forms. Article 16 (1) (c) secures the same rights and responsibilities for women during marriage and at its dissolution.

3.4 Criminal Justice

A series of unresolved crimes and unfair trials related to the garment industry have raised doubts about the credibility of Bangladesh's judiciary, thus threatening the establishment of fundamental human rights in the country. A vocal and fearless garment worker and active trade union organizer Aminul Islam who belonged to the nonprofit labour group Bangladesh Centre for Workers Solidarity (BCWS) was tortured and murdered in April 2012. He fought relentlessly for labour justice and recruited a growing number of workers to join politically independent labour groups. Earlier in 2010, Islam and two other BCWS leaders Babul Akhter and Kalpona Akter were charged with multiple serious offences, including attempted murder, criminal intimidation and violence against civil servants which the union leaders denied committing. Later that year he was arbitrarily detained and tortured by members of the National Security Intelligence. It has been widely speculated that the trade unionists were taken to trial in order to obstruct their growing labour activism and that Islam's murder, which to this day remains unsolved, was a message sent out to trade unions and local NGO's not to protest low wages and working conditions.¹³

The two major garment factory accidents that have taken place in recent years have highlighted the unjust and preferential legal system of Bangladesh. The Tazreen Factory fire had initially showed promise in making those who are responsible accountable for the

¹³ *The Bangladesh Labour Code, 2006.*

accident. After fourteen months of bypassing the legal process, in February 2014 the factory owner Delwar Hossain was taken into custody and charged with death by negligence of the victims. However, in August the same year he was released on bail prior to an 11 day hunger strike by 1600 of his factory workers because they were not given their pay.

The president of Garment Workers' Unity Forum commented that withholding workers' wages was "dirty politics" from the owners in order to have Delwar bailed out. (The Guardian 2014) In the case of Rana Plaza, altogether twelve people were arrested after the accident, including two factory owners and two engineers. All have been released on bail except the building owner Sohel Rana and one of the factory owners. Fears remain over the possible bail out of the remaining accused as the owner of the building allegedly has political ties to the ruling political party Awami League. (Benar News 2015) To put things in a clearer perspective, Bangladesh's high court in 2012 sentenced a university lecturer to six months in jail for posting a Facebook status joking about the death of the country's Prime Minister Sheikh Hasina. A Facebook status which essentially relies on the right to freedom of speech attracts a similar sentence as that served by the owner of the Tazreen factory who, by neglecting safety issues, got more than a hundred people killed.¹⁴

3.5 Living Wage

The wages of Bangladeshi garment workers remain among the lowest in the world, and the lowest between major apparel manufacturing countries despite a recent review to the country's national minimum wage. The garment workers have persistently fought for increases in the country's legal minimum wage, and in November 2013, after workers' protests that forced about 250 garment factories to close, a government appointed minimum wage board voted to raise the minimum wage in the garment industry from 3,000 BDT (\$39) to 5,300 BDT (\$68), which amounted to an increase of 77 percent. Trade Unions had originally demanded 8,114 BDT, but the owners representatives were calling for a rise to just 3,600 BDT. (CCC) However, as inflation was 7.5 percent in 2013 and persists to be approximately the same today, the wage increase has been in fact smaller in real terms due to an increase in living costs. (World Bank)

¹⁴ *ASK, BLAST and Others v. Bangladesh and Others [‘KTS Garments Fire’ Case]*, W. P. No. 2019 of 2006.

Although the increase is relatively considerable, the current minimum wage is still far from what is considered to be a living wage. The Asia Floor Wage Alliance, a coalition of international trade unions and labour rights activists, has calculated that a living wage in Bangladesh is 25,687 BDT (\$330) which takes into account some common factors including the number of family members to be supported, the basic nutritional needs as well as other basic needs such as housing, healthcare, education and some basic savings. (CCC)

The Universal Declaration of Human Rights states in Article 23 that everyone who works has the right to just and favourable remuneration that ensures an existence worthy of human dignity. (UN) The recent wage increase continues to force garment workers to live in poverty and deprives them of dignity. The poor in Bangladesh spend more than 60 percent of their income on food which leaves only a very small proportion to cover other basic necessities. With their meagre salaries many garment workers cannot afford to rent a place of their own and are compelled to live in urban slums which creates additional dangers in regard to health and safety, especially for young girls and women who have migrated to the country's capital from rural areas. Low wages essentially leaves workers with no other choice but to work long hours which contributes to the cycle of other labour law violations. Furthermore, according to the president of the Garment Workers' Unity Forum that represents 80,000 garment workers, the implementation of the new minimum wage has been slow as only 40 percent of employers abide by the amended minimum wage law.

3.6 Safety

Because of the rapid spread of the industry, many buildings that were initially built for other purposes have been converted into factories often without appropriate permits, increasing various safety hazards as the buildings are compromised with heavy machinery. The vast majority of Bangladesh's garment factories are located in Greater Dhaka where RAJUK is the main authority responsible for issuing building permits and monitoring illegal construction, however due to widespread corruption and lack of resources regulation and intervention are extremely poor. (RAJUK 2011) Bangladesh's first building code was published in 1993 to set out requirements for the construction of buildings throughout the country, but it was not modified until 2006 by which time already more than 4000 garment factories had been constructed under loose guidance and

regulation. (BNBC 2006) Moreover, as the amount of garment factories has grown exponentially in a few decades, the number of inspectors and monitoring bodies of the industry have not increased in the same proportion. ITUC has estimated that in 2008 the government employed less than 80 labour inspectors who were responsible for all the industrial sectors in the country. (ITUC 2012) The Bangladesh Institute of Architects projects that 50 percent of the country's garment factories are likely to be unsafe.

Faulty electrics, outdated wiring at risk of short circuit, nonexistent or archaic fire extinguishing facilities as well as old and badly maintained machinery are the main reasons for frequent factory fires. (CCC 2012, 2-3) A report by Solidarity Center discovered that between November 2012 and January 2014 there was on average one factory fire a week. An average of two garment workers are injured or killed per day due to factory fires in Bangladesh. The figures used in the report do not take into account large-scale tragedies such as the Tazreen Fashions accident in November 2012 that killed at least 112 people and injured 200 more, but only the everyday fires and ordinary deaths and injuries that do not make mainstream news because they do not reach catastrophic proportions.¹⁵

3.7 Violence against Women in Ready-made Garment Sectors

If we see the ready-made garments sector in Bangladesh it creates disproportionately gender inequality, poor working conditions in factories and sexual harassment. The huge employment of women in the ready-made garments industry which provides hope for poor, unemployed women is ironically also a reflection of the unequal treatment given to women both within and outside this industry. Garment factories always prefer women workers because women are obliging more than men. Even Women are placed in normal jobs that not require higher technological ability as compared to men. As a result, as jobs become more technologically intensive, men's earnings rise faster than women's who get concentrated in low skill, low-pay jobs. Even after controlling for education and experience, women are paid lower wages for the same job as compared to men. Moreover, wages are often paid in such way that overtime is not recorded properly. Women workers work with few breaks, doing repetitive work and in poor working conditions, such as poor lighting and ventilation, unhygienic surroundings and inadequate

¹⁵ International Labor Rights Forum 2014, 2-3

toilet facilities. Weight loss, fatigue, head and ear complaints and eye problems among women garment workers have been reported because of their tedious jobs. Many factory structures are dangerous to the workers. Bangladesh has experienced a lot of building collapses and fires reported weekly.

3.8 Measures to be taken for Owners

3.8.1 The Garment Owner's Command Regarding the Worker's Right

In Bangladesh there are many garments owners who are very much rich as like as the western businessmen. But the garments owners of this country pay a very little amount to its employees. The owners said that many brands of the world buy their product but they pay a very little for that. For this reason they are unable to pay much wages to their workers¹⁶

In a conference, it was said that the Fozlul Azim who earned about 20 lacks US dollar from his RMG factory. He has already created a very good position in the world market. He has more than 26 thousand workers in his RMG factories. He said the buyers only ask to produce more and more products. But they do not pay huge money while buying the products and the cost of production is increasing day by day.

Again the RMG owners of Bangladesh paid only 10 lacks money to the treasury of BGMEA. In the last few years they only paid 25 lacks in the treasury of Bangladesh. The former president of BGMEA Salam Murshi said they paid only 10 lacks to the treasury of BGMEA for the victims of Rana Plaza. They argued that there are more rich garments companies in Bangladesh who paid nothing. This is no doubt an injustice to the workers.¹⁷

3.8.2 Increasing Monthly Wages of Workers

The government of Bangladesh sets minimum wages for various categories of workers. Often female helpers are discriminated against in terms of wages levels, and these wages are also often fixed far below the minimum wage rate. In Bangladesh Labour code, 2006 a minimum wage range has been introduced for the garment workers in section 3 of Minimum Wages Ordinance, 1961 (Ordinance No. XXXIX of 1961). The Act ensured a

¹⁶ (The Daily Prothom Alo (May 5, 2014), p.13.).

¹⁷ (The Daily Prothom Alo (August 3, 2014), p.11)

fixed amount of wages for all categories of garment workers (*Minimum Wages Ordinance, 1961* (Ordinance No. XXXXIX of 1961), s. 3).

A readymade garments worker named Sahanaj told that their monthly wages depend on their hourly production. If they fail to do so, sometime portions from their monthly wages are also curtailed (*The Daily Ajker Sangbad*, (April 28, 2015), p.5).

After a series of protests in 2010, the national minimum wage in Bangladesh was increased from 1,662 taka (US\$ 21.32) to 3000 taka (US\$ 38.49). But still the minimum monthly wage of a garment factory worker is lower than the minimum monthly cost of living in Bangladesh.

3.8.3 Working hours need to be identified

Though the wages are low, the working hours are very long. The RMG factories claim to operate one eight-hour shift six days a week. *The factory Act, 1965* allows women to work delivery deadlines; however, women are virtually compelled to work after 8 o'clock. Sometimes they work until 3 o'clock in the morning and report back to start work again five hours later at 8 o'clock. They are asked to work whole months at a time the Factory Act, which stipulates that no employee should work more than ten days consecutively without a break.

3.8.4 Prevention of poor accommodation

As most of the garment workers come from the poor family and comes from the remote areas and they have to attend to the duties on time, these workers have to hire a room near the factory and spend life in sub-human condition. For four to five workers there is one common latrine and a kitchen for which they have to pay from Tk=2000 to Tk=2500. They share this amount among themselves to minimize the accommodation expense.

One cannot believe their eyes about the horrible condition of the workers of garments. After laborious job they come into their roost, cook their food and have their dinner or lunch in unhygienic floor or bed and sleep where they take their food. They share the single bed or sleep on the floor. The owners of these factories must not treat the workers as animals. Will these selfish owners ever think of these workers for the sake of humanity by providing better accommodation?

Chapter 4

Role of Government against Violence of Garments Workers in Bangladesh

In many countries the garment industry is the largest sector explore in manufacturing. However, because a significant proportion of workers in garment work in the informal sector and in particular as home-based workers, they tend to be invisible. They rarely represented in national statistic (*The Daily Bangladesh Protidin* (December 23, 2014), p.3).

3.1 Difference between Foreign Workers and Bangladeshi Workers

If a jeans pant is prepared in America it takes 5 times more costing than Bangladesh. It is because the workers are less paid here in Bangladesh. From a statistics of Institute of labour and human rights, it has been showed that when a shirt or pant is made in America the more than 50% of total cost of the piece is necessary to be paid to the workers. If the same shirt or pant is prepared in Bangladesh the worker is paid only 6% of the price of the product. This is also found from the statistics of CNN graphics.¹⁸

A Canadian company named Orureck group showed a statistics in 2014. They said when they prepare a product from Bangladesh they need to pay 5 dollar and 67 cents but they usually sell those product to their country market at least 14 dollar. So, generally they profit more than 60% in total. But it is a matter of great sorrow that for a polo shirt a Bangladeshi worker gets only 12 cents. It has been showed that when a product is sold in the market of USA, 7% of total profit goes to the pocket of importers and sellers, only 27% for the exporters and the remaining volume of 3% exists for the maker. In fact this is really too much pathetic.¹⁹

3.2 Labour Court

For the purposes of this Act, the Government shall, by notification in the official Gazette, Establish as many labour courts as it considers necessary. Where more than one labour court is established under sub-section (1), the Government shall specify in the notification

¹⁸ (<http://www.nydailynews.com/news/world/bangladesh-fire-factory-high-risk-article->).

¹⁹ (*The Daily Ajker Sanbad* (December 3, 2014), p.3).

the territorial limits within which each one of them shall exercise jurisdiction under this act.

A labour court shall consist of a chairman and two members to advise him, but in case of trial of any offence or in disposal of any matter under chapter X and XII it shall be constituted with the chairman only. The chairman of the labour court shall be appointed by the Government from amongst the District judges or an additional district judges. The terms and conditions of appointment of the chairman of the labour court shall be determined by the Government. One of the two members of the labour court shall be the representative of employers and the other shall be the representatives of the workers and they shall be appointed in the manner hereinafter provided in sub-section (9). The Government shall constitute, in the manner prescribed by rules, by notification in the official Gazette, two panels, one of which shall consist of six representatives of employers and the other of six representatives of the workers. The panel of members prepared under sub-section 99 shall be reconstituted after every two years, notwithstanding the expiry of the said period of two years, the members shall continue on the panels till the new panels are constituted and notified in the official Gazette. The chairman of the labour court shall, for hearing or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under sub-section (7), and persons so selected, together with the chairman, shall be deemed to have constituted the labour court in respect of that specific industrial dispute: provided that the chairman may select any member from either of the panels as a member of the labour court in respect of more than one such case pending before the labour court. A labour court shall have exclusive jurisdiction to (a) adjudicate and determine and industrial dispute or any other dispute or any question which may be or has been referred to or brought before it under this Act's) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the government; (c) try offences under this Act; and (d) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under this act or any other law

3.3 Right to Wages

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care, necessary

social services, and the right to security." (United Nations Universal Declaration of Human Rights Article 25.1) Wages and benefits are one of the primary interests an employee may have, and unfortunately, disputes over the payment of wages and provision of benefits are not uncommon. There is a wide range of laws concerning wages and benefits, and this section provides information on employees' legal rights on those issues including tips on overtime pay, employee health insurance, and retirement plans. All employees are entitled to be paid for the work they have done. They are also entitled to be paid if they are ready and willing to work but their employer has not provided them with any work to do, unless your employment contract says otherwise. If you're an employee, you're entitled to be paid if you can't work because you are off sick or away from work on maternity leave, paternity leave or adoption leave, or parental leave. You are also allowed a certain number of days paid holiday a year. In most of these situations, you are entitled to your usual wage whilst off work. There are some exceptions to these rules. For example, parents on maternity leave, paternity or adoption leave, or parental leave, are entitled to a certain amount of paid leave but the law sets out the rate at which this must be paid and it may not be as much as their usual wage. If you are employee on sick pay, your contract may give you less pay than your normal pay. By law, most employees are entitled to the legal minimum statutory sick pay. Your contract may give you more pay than this.

You may be entitled to unpaid time off work in other circumstances, for example, in a family emergency or on jury service. Any amount of wages on top of the national minimum given by law, or the amount of wages for workers who are not covered by the national minimum wage, depends on the worker's individual contract of employment. Employers must not discriminate in the amount that they pay their workers, for example, by paying black workers less than white workers who are doing the same job, or by paying women less than men when they are doing work of equal value. This is known as 'equal pay' (www.adviceguide.org.uk/england/...e/). Workers in the UK aged 16 or over are legally entitled to a national minimum hourly wage. It does not matter where they work, the size of the firm or the worker's occupation. This includes casual laborers, agency workers, and home workers, workers on short-term contracts and workers employed by subcontractors²⁰

²⁰ *The Daily Star*, November 25, 2014, p.1

3.4 Right to leaves and Holidays

Most workers have the right to take a minimum amount of paid holiday. This is called statutory holiday. You have the right to take statutory paid holiday from work if you are a worker. This includes people who work full-time, part-time, agency workers and casual workers. Only people who are self-employed and a few other exceptions will not be entitled to statutory paid holiday. The rules about statutory holiday apply regardless of how long you have worked for your employer and regardless of how old you are. However, you don't have the right to statutory (www.adviceguide.org.uk/england/...e/) holiday if you're a child under school leaving age. Before 1 April 2009, your right to paid holiday from work was 4.8 weeks. Your leave year may have started before 1 April 2009 and carries on after 1 April 2009. If so, your annual leave will be worked out on a pro-rata basis 4.8 weeks pro rata for the period before 1 April 2009 and 5.6 weeks pro rata for the period from 1 April 2009. Your contract of employment may give you the right to take more than the statutory amount of paid holiday. However, it cannot give you less. If your contract gives you the right to take more than the statutory amount of paid holiday, this is called contractual holiday. The law doesn't say how much contractual holiday you should get, or whether or not it should be paid, how much paid holiday can take?

You are entitled to a minimum of 5.6 weeks' holiday a year. This is called statutory holiday. To work out how many days holiday you can take a year, you need to multiply 5.6 by the number of days you work in a week.

if you work a five-day week, you are entitled to 28 days' paid holiday a year (5.6×5).if you work 2.5 days a week, you are entitled to 14 days' paid holiday a year (5.6×2.5).

The maximum amount of statutory paid holiday you can be entitled to is 28 days. This applies even if you work more than five days a week. Your contract of employment may give you the right to take more than the statutory amount of paid holiday. However, it cannot give you less. For example, if your contract of employment says you can only take 10 days' paid holiday a year and you work five days a week, you will still be entitled to take 28 days' paid holiday. If your normal working week is expressed in hours, your statutory leave may be expressed in hours too. Before 1 April 2009, you were entitled to 4.8 weeks paid holiday a year. If your leave year includes time before 1 April 2009, your annual leave will be worked out on a pro-rata basis 4.8 weeks pro rata for the period

before 1 April 2009 and 5.6 weeks pro rata for the period from 1 April 2009 (www.adviceguide.org.uk/england/...e/).

3.5 Right to Welfare

Work just isn't working for too many in America today. The government agencies charged with protecting workers' health and safety have abandoned scores of regulatory priorities and scaled back enforcement efforts, leaving millions of workers under-protected. Millions of people work without such basic rights as paid sick days. Too many who try to organize in order to negotiate improved working conditions in their workplaces end up fired or find their efforts undermined by anti-organizing campaigns. Those whose rights are violated sometimes discover they lack meaningful remedies, as they either must depend on government agencies that may not respond to their problems or face obstacles to exercising their right to take their cases to court.

The Foundation's Workers' Rights Program supports groups seeking policy and system reforms to improve the lives of low-wage working people, with a focus on securing their basic legal rights to safe, healthy, and fair conditions at work. Specifically, the Program makes grants to groups seeking reforms that will do the following:

Make Work Safe and Healthy— by preventing illness, injury, and death on the job, and improving workers' compensation;

Make Work Pay— by empowering workers to hold low-road employers accountable for wage theft, misclassification, and contingent work abuse, particularly through policies that create or improve private rights of action and fee shifting; and Build Workers' Advocacy Power by improving the ability of low-wage workers to act collectively for policy and system reform.

Additionally, the Program supports investigative journalism, national broadcast news coverage, and other high-profile media and public education about workers' rights issues (Public Welfare Foundation, 2010, 1200 U Street, NW, Washington, D.C. 20009-4443 | ph. 202-965-1800).

Habitual residence is a condition which you must satisfy in order to qualify for some social welfare assistance payments. It was introduced on 1st May 2004 and affects all

applicants regardless of nationality. To demonstrate that you are 'habitually resident' in Ireland, you must have a proven close link to Ireland or other parts of the Common Travel area. The Common Travel area is Ireland, Great Britain, the Channel Islands and the Isle of Man.

There are 5 factors that are considered:

- Your residence in Ireland or the Common Travel area
- Your reasons for leaving Ireland or the Common Travel area
- Your employment record in Ireland and abroad
- Your main centre of interest
- Your future intention to remain in Ireland

If you are homeless you should contact your local authority or call the free phone number 1800 724 for advice and information on accessing emergency accommodation. For more information on different homeless services in Dublin see Cross care Map of Homeless Services.

3.6 Right to Compensation

The purpose of this background paper is to lay out the fundamental principles and guideposts of the right to compensation for injuries under general international law. In effect, it is intended as an exegesis of the phrase "principles of international law or equity"¹ in paragraph 11 of UN General Assembly Resolution 194 (III), adopted December 11, 1948, upon which Palestinian claims for refugee compensation are often based: and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.

Such an analysis is necessary, in part, because General Assembly resolutions are not binding in and of themselves. While most GA resolutions are mere recommendations made pursuant to Article 10 of the UN Charter, in certain circumstances they can be considered persuasive restatements of existing law or can, if repeated over time, "achieve the effect of such binding force through the acceleration of the custom generating process or through the doctrine of estoppels."²¹

²¹ Refugees and Countries of Asylum," 80 *Am. J. Intl. Law* 532, 545 (1986))

While the specific jurisprudence pertaining to the compensation of refugees per se is touched on only in passing, the paper will discuss the law of state responsibility the prerequisite for compensation and the standards for determining when compensation is owed. It will then briefly survey recent developments outside of the trade, commerce and investment context, including the European and Inter-American Courts of Human Rights and a number of other non-commercial compensation contexts. A short glossary of relevant terms is also appended.

Claims for relief under international law always begin with the law of state responsibility, which is considered to consist of the "secondary rules" that determine the legal consequences of failure to fulfill substantive legal obligations, which are considered the "primary rules. According to the International Law Commission (ILC)'s 1996 Draft Rules on State Responsibility, every act by a state which is wrongful under some "primary" rule of international law imposes international responsibility on that state. Wrongful acts occur when an injury is a) caused by conduct consisting of an action or omission which is attributable to the State under international law; and b) that conduct constitutes a breach of an international obligation of the State. It does not matter whether the "primary" international obligation is found in customary law or treaty; nor does it matter whether the same act is considered lawful by the state's own internal law. However, a breach only occurs "if the act was performed at the time when the obligation was in force for that State"²²

It has long been a general and undisputed principle of international law, going back to Blackstone as well as Grotius that where there is a legal right, there is also a legal remedy or action at law whenever that right is invaded. This is the flipside of the principle that states have the obligation to make restitution for their wrongful acts and violations of international law. Resolving issues over the nature or extent of the reparation to be made for the breach of an international obligation is, in fact, one of the functions of the International Court of Justice (ICJ). "Ordinarily, emphasis is on forms of redress that will undo the effect of the violation.

²² *Report of the International Law Commission on the Work of its Forty-Eighth Session*, 6 May - 26 July 1996 (A/51/10))."

Until about 1974, this general standard, codified in 1938 as the "Hull Formula," which called for "prompt, adequate and effective compensation," predominated. In the 1970's, the "Calvo doctrine," under which non-industrialized states sought to immunize themselves against alien property claims, recognizing only "appropriate" compensation, was supported by the UN General Assembly in its Charter of Economic Rights and Duties of States. Since the end of the Cold War, the Hull formula is more or less back in favor.¹⁴ However, the ILC's 1996 Draft Rules on State Responsibility provide three conditions in which either full monetary reparations or restitution in kind might be limited: 1) where reparation would "result in depriving the population of a State of its own means of subsistence"; 2) where in-kind restitution would involve "a burden out of all proportion to the benefit which the injuring State would gain from obtaining restitution in kind instead of compensation"; and 3) where in-kind restitution would "seriously jeopardize the political independence or economic stability of the State which has committed the wrongful act, whereas the injured State would not be similarly affected if it did not obtain restitution in kind." The ILC recognized in its own official Commentary to these provisions that they were controversial, involved admittedly extreme cases, and had been rejected by some ILC members. Nevertheless, these exceptional provisions have "nothing to do with the obligation of cessation, including the return to the injured State, for example, of territory wrongfully seized."²³

3.7 Right to Leisure and recreation

Recreation is an activity of leisure, leisure being discretionary time. The "need to do something for recreation" is an essential element of human biology and psychology. Recreational activities are often done for enjoyment, amusement, or pleasure and are considered to be "fun". The term *recreation* implies participation to be healthy refreshing mind and body.

The term *recreation* appears to have been used in English first in the late 14th century, first in the sense of "refreshment or curing of a sick person", and derived from Old French, in turn from Latin (Thomas S. Yukic. *Fundamentals of Recreation*, 2nd edition. Harpers & Row, 1970, Library of Congress 70-88646. p. 1).

²³ English trans. by Francis Kelsey, 1949)

Humans spend their time in activities of daily living, work, sleep, social duties, and leisure, the latter time being free from prior commitments to physiologic or social needs, a prerequisite of recreation. Leisure has increased with increased longevity and, for many, with decreased hours spent for physical and economic survival, yet others argue that time pressure has increased for modern people, as they are committed to too many tasks. Other factors that account for an increased role of recreation are affluence, population trends, and increased commercialization of recreational offerings. While one perception is that leisure is just "spare time", time not consumed by the necessities of living, another holds that leisure is a force that allows individuals to consider and reflect on the values and realities that are missed in the activities of daily life, thus being an essential element of personal development and civilization. This direction of thought has even been extended to the view that leisure is the purpose of work, and a reward in itself and "leisure life" reflects the values and character of a nation. Leisure is considered a human right under the Universal Declaration of Human Rights. Recreation is difficult to separate from the general concept of play which is usually the term for children's recreational activity. Children may playfully imitate activities that reflect the realities of adult life. It has been proposed that play or recreational activities are outlets of or expression of excess energy, channeling it into socially acceptable activities that fulfill individual as well as societal needs, without need for compulsion, and providing satisfaction and pleasure for the participant. A traditional view holds that work is supported by recreation, recreation being useful to "recharge the battery" so that work performance is improved. Work, an activity generally performed out of economic necessity and useful for society and organized within the economic framework, however can also be pleasurable and may be self-imposed thus blurring the distinction to recreation. Many activities may be work for one person and recreation for another, or, at an individual level, over time recreational activity may become work, and vice-versa. Thus, for a musician, playing an instrument may be at one time a profession, and at another a recreation there is a lot more to do. Recreation is an essential part of human life and finds many different forms which are shaped naturally by individual interests but also by the surrounding social construction. Recreational activities can be communal or solitary, active or passive, outdoors or indoors, healthy or harmful, and useful for society or detrimental. A list of typical activities could be almost endless including most human activities, a few examples being reading, playing or listening to music, watching movies or TV, gardening, hunting, hobbies, sports, studies, and travel. Not all recreational activities can be considered wise,

healthy, or socially acceptable or useful—examples are gambling, drinking, or delinquent activities. Recreational drugs are being used to enhance the recreational experience, a wide-ranging and controversial subject as some drugs are accepted or tolerated by society within limits, others not and declared illegal. Public space such as parks and beaches are essential venues for many recreational activities. Tourism has recognized that many visitors are specifically attracted by recreational offerings. In support of recreational activities government has taken an important role in their creation, maintenance, and organization, and whole industries have developed merchandise or services. Recreation-related business is an important factor in the economy; it has been estimated that the outdoor recreation sector alone contributes \$730 billion annually to the U.S. economy and generates 6.5 million jobs. Many recreational activities are organized, typically by public institutions, voluntary group-work agencies, private groups supported by membership fees, and commercial enterprises. Examples of each of these are the National Park Service the YMCA the Kiwanis, and Disney World. Recreation has many health benefits, and, accordingly, recreational therapy has been developed to take advantage of this effect. Such therapy is applied in rehabilitation and in the care of the elderly, the disabled, or people with chronic diseases. Recreational physical activity is important to reduce obesity, and the risk of osteoporosis and of cancer, most significantly in men that of colon and prostate and in women that of the breast; however, not all malignancies are reduced as outdoor recreation has been linked to a higher risk of melanoma. Extreme adventure recreation naturally carries its own hazards. A recreation expected to meet the recreational needs of a community or assigned interest group. Educational institutions offer courses that lead to a degree as a bachelor of arts in recreation management. People with such degrees often work in parks and recreation centers in towns, on community projects and activities. Networking with instructors, budgeting and evaluation of continuing programs are common job duties. In the United States, most states have a professional organization for continue education and certification in recreation management. The National Recreation and Park Association administer a certification program called the CPRP Certified Park and Recreation Professional that is considered a national standard for professional recreation specialist practices.²⁴

²⁴ *The Daily Bangladesh Protidin*, December 23, 2014, p.3.

3.8 Right to medical facilities

INADEQUATE medical facilities and data may mar the efforts of the Taraba State government to curtail the outbreak of meningitis in the state. Seventy-eight cases of meningitis have been reported to the Taraba State Ministry of Health and five deaths recorded as at Wednesday. However, only one case has been medically confirmed to be meningitis in the 10 out of 16 local governments of the state. Speaking in his office in Jalingo, the state capital on the killer disease, Dr. Ebenezer Apaku, Director of Primary Health Care and Disease Control, said most of the cases involve people living in the remote areas of the state without access to adequate medical facilities. “The airborne disease usually occurs all year round but during the dry or hot season, the prevalence is high. The level of surveillance is also high.” “We also need to confirm the strain of the bacteria. This is important to give the right vaccination. If you give the wrong vaccine, you will not be helping the patients. But from the isolated cases we are having, it has not reached the threshold of epidemic now,” he said. Apercu disclosed that it is the policy of the Federal Ministry of Health with the advice from the World Health Organization (WHO) that once the threshold of epidemic for meningitis has not been reached; there is no need to vaccinate the affected community. But he did not say at what point the threshold will be reached. The Medical Director of Zing General Hospital, Emmanuel Scheme corroborated the fact that meningitis is usually on the prowl in the state during the hot season. “So far, we have one unconfirmed case of meningitis in the hospital. We have taken the cerebrospinal fluid of the patient for laboratory test in Jalingo. “I don’t determine the turnaround time. But the effect of the delay is that we may not be able to confirm the actual cause of illness before the patient is discharged,” he said. He called on the government to expedite action to ensure early results of tests of patients suspected to have meningitis. “Also for record purposes, it is better to have early results from the laboratory. Although it can affect anybody, children under the ages of 15 are most vulnerable. One of the major challenges for patients is inability to buy drugs,”²⁵

3.9 Right to participation in trade union

The trade unions have always been denied any effective role in the garment sector and so have little influence over the workforce or abilities as mediator’s relations. But every worker along with the garment has a fundamental right to form and participate in trade

²⁵ www.umich.edu/~cibe/students/Azad-new.pdf.

union. When disturbances reach a certain peak new promises are made to allow trade union activity, but as unrest subsides most factory bosses maintain their refusal to concede to allowing union representation. One of the most important functions of the trade unions is to promote and train factory managers from among the workers and the masses of the working people generally. At the present time we have scores of such factory managers who are quite satisfactory, and hundreds who are more or less satisfactory, but very soon; however, we must have hundreds of the former and thousands of the latter. The trade unions must much more carefully and regularly than hitherto keep a systematic register of all workers and peasants capable of holding posts of this kind, and thoroughly, efficiently and from every aspect verify the progress they make in learning the art of management. The trade unions must take a far greater part in the activities of all the planning bodies of the proletarian state, in drawing up economic plans and also programmers of production and expenditure of stocks of material supplies for the workers, in selecting the factories that are to continue to receive state supplies, to be leased, or to be given out as concessions, etc. The trade unions should undertake no direct functions of controlling production in private and leased enterprises, but participate in the regulation of private capitalist production exclusively by sharing in the activities of the competent state bodies. In addition to participating in all cultural and educational activities and in production propaganda, the trade unions must also, on an increasing scale, enlist the working class and the masses of the working people generally for all branches of the work of building up the state economy; they must make them familiar with all aspects of economic life and with all details of industrial operations from the procurement of raw materials to the marketing of the product; give them a more and more concrete understanding of the single state plan of socialist economy and the worker's and peasant's practical interest in its implementation. The drawing up of scales of wages and supplies, etc., is one of the essential functions of the trade unions in the building of socialism and in their participation in the management of industry. In particular, disciplinary courts should steadily improve labour discipline and proper ways of promoting it and achieving increased productivity; but they must not interfere with the functions of the People's Courts in general or with the functions of factory managements. This list of the major functions of the trade unions in the work of building up socialist economy should, of course, be drawn up in greater detail by the competent trade union and government bodies. Taking into account the experience of the enormous work accomplished by the unions in organizing the economy and its management, and also the

mistakes which have caused no little harm and which resulted from direct, unqualified, incompetent and irresponsible interference in administrative matters, it is most important, in order to restore the economy and strengthen the Soviet system, deliberately and resolutely to start persevering practical activities calculated to extend over a long period of years and designed to give the workers and all working people generally practical training in the art of managing the economy of the whole country. Contact with the masses, i. e., with the overwhelming majority of the workers (and eventually of all the working people), is the most important and most fundamental condition for the success of all trade union activity. In all the trade union organizations and their machinery, from bottom up, there should be instituted, and tested in practice over a period of many years, a system of responsible comrades who must not all be Communists who should live right among the workers, study their lives in every detail, and be able unerringly, on any question, and at any time, to judge the mood, the real aspirations, needs and thoughts of the masses. They must be able without a shadow of false idealization to define the degree of their class-consciousness and the extent to which they are influenced by various prejudices and survivals of the past; and they must be able to win the boundless confidence of the masses by comradeship and concern for their needs. One of the greatest and most serious dangers that confront the numerically small Communist Party which, as the vanguard of the working class, is guiding a vast country in the process of transition to socialism, is isolation from the masses, the danger that the vanguard may run too far ahead and fail to "straighten out the line", fail to maintain firm contact with the whole army of labor, i. e., with the overwhelming majority of workers and peasants. Just as the very best factory, with the very best motors and first-class machines, will be forced to remain idle if the transmission belts from the motors to the machines are damaged, so our work of socialist construction must meet with inevitable disaster if the trade unions—the transmission belts from the Communist Party to the masses—are badly fitted or function badly. It is not sufficient to explain, to reiterate and corroborate this truth; it must be backed up organizationally by the whole structure of the trade unions and by their everyday activities.²⁶

²⁶ Role and Functions of the Trade Unions under the New Economic Policy by V. I. Lenin, Lenin's *Collected Works* 2nd English Edition, Progress Publishers, Moscow, 1965, Volume 33, pages 188-196).

3.10 Right to safety in the workplace

Employees have the right to a workplace that is reasonably free of safety and health hazards. A federal agency the Occupational Safety and Health Administration (OSHA) typically sets and enforces standards to ensure the safety and health of America's workers. Choose a link from the list below for information and tips on workplace health and safety. Workers' right to workplace health and safety appear as standards in workplace health and safety laws. These laws are known as "regulations". It is illegal for an employer not to follow a regulation. A regulation contains the minimum protection an employer must give a worker against dangers to the worker's good health and safety. The minimum protection is defined as a standard. When an employer doesn't set the workplace's health and safety standards as high as the standards found in regulations, then the regulations need to be properly enforced. Government inspectors play an important role in the enforcement of regulations by ensuring that employers are meeting the legal standards (the Health and Safety Act 1992).

3.11 Right to remedies under laws

Bangladesh employs 3.4 million garment workers in 4,200 ready-made-garments (RMG) factories that produce US\$12.59 billion in export earnings, representing 78% of the country's total. Contributing nine percent of the gross domestic product, the industry is directly or indirectly responsible for the employment of 24 million people. The minimum wage is \$43/month or about \$10/week. This equals 20 cents an hour, the lowest wage, by far, of any major garment producing country. Studies show that this wage fails to cover the cost of the minimum nutritional needs of even a single worker, let alone her family. The Bangladesh Center for Worker Solidarity was borne out of a worker movement to form the first trade union in a factory sourcing for a garment retailer. Since the early 1990s, the BCWS has had a long tradition of advancing workers' rights by documenting labor abuses and violations and strengthening the capacity of workers to advocate for themselves and advance their own interests. BCWS is highly regarded by labor rights advocates world-wide and by apparel companies as well. Levi Strauss & Co. has called BCWS "a globally respected labor rights organization, which has played a vital role in documenting and working to remedy labor violations in the apparel industry in Bangladesh." The project has been successful in providing women workers with a better/solid understanding of their rights and the legal protections that they can invoke to defend them. It has also been successful in educating women workers about codes of

conduct which they previously had no knowledge of. Women now have the confidence to ask factory management about their codes of conduct, to question the failure to implement their commitments and to negotiate with management to defend their rights. To do this, trained female workers have taken the initiative to organize their respective factory workers and to form female led unions . Many women who hadn't had the chance to attend the leadership training programs were able to benefit from BCWS reading and educational materials and the organization's broader awareness raising campaigns. Among 14 factories, 4 became ready for union registration. This is a truly remarkable victory, especially given the current political situation in Bangladesh which has served to further limit the ability of workers to defend their rights.

3.12 Protection of the rights of the garment workers under Constitution

The rights of the workers have been given and also protected by the Constitution of Bangladesh. It shall be a fundamental responsibility of the State to emancipate the toiling masses the peasants and workers and backward sections of the people from all forms of exploitation (The constitution of Bangladesh 1972,Article 14). That the garment workers can be saved to their rights by this provision. Though this is not enforceable by the court, no one can violate this right. The State shall Endeavour to ensure equality of opportunity to all citizens. The State shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic. The State Shall Endeavour to ensure equality of opportunity and participation of women in all spheres of national life (The constitution of Bangladesh 1972, Article 19). Work is a right, a duty and a matter of honour for every citizen who is capable of working and everyone shall be paid for his work on the basis of the principle "from each according to his abilities, to each according to his work". The State shall Endeavour to create conditions in which, as a general principle, persons shall not be able to enjoy unearned incomes, and in which human labour in every form, intellectual and physical, shall become a fuller expression of creative Endeavour and of the human personality (The constitution of Bangladesh 1972,Article 20). All citizens are equal before law and are entitled to equal protection of law (The constitution of Bangladesh 1972,Article 27) in every place. Here shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic. No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the

Republic. Nothing in this article shall prevent the State from making special provision in favors of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic; giving effect to any law which makes provision for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination; reserving for members of one sex any class of employment or office on the ground that it is considered by its nature to be unsuited to members of the opposite sex (The constitution of Bangladesh 1972, Article 29). All forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law (The constitution of Bangladesh 1972, Article 34). Every citizen possessing such qualifications, if any, as may be prescribed by law in relation to his profession, occupation, trade or business shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business (The constitution of Bangladesh 1972, Article 40). If those rights are violated the worker can go to The High Court Division for enforcement these rights.²⁷

3.13 Protection of the rights of the garment workers under Labor Act 2006

Where the employment of a worker has been ceased due to a retirement, discharge, retrenchment, dismissal and termination etc. all amounts due to him shall be paid within maximum thirty working days by the employer (The Bangladesh Labor Act 2006, Section 30). Every worker other than a casual or badly worker shall be entitled to a certificate of service from his employer at the time of his retrenchment, discharge dismissal, removal, retirement or termination of service (The Bangladesh Labor Act 2006, Section 31). Any worker, including a worker who has been laid-off, retrenched, discharged, dismissed, removed, or otherwise removed from employment, who has grievance in respect of any matter covered under this chapter, and intends to seek redress thereof under this section, shall submit his grievance to his employer, in writing, by registered post within thirty days of being informed of the cause of such grievance. Provided that if the employer acknowledges receipt of the grievance, in that case the service by registered post shall not be essential. The employer shall within fifteen days of receipt of such grievance, enquire into the matter, give the worker an opportunity of being heard and communicate his decision, in writing to him. If the employer fails to give a decision under sub-section or if the worker is dissatisfied with such decision, he may make a complain in writing to the

²⁷ <http://www.amrc.org.hk/node/1153>, last visited on May 25, 2015.

Labour court within thirty days from the last date under sub-section or within thirty days from the date of the decision, as the case may be. The Labour court shall, on receipt of the complaint hear the parties after giving notice to them and make such orders as it may deem just and proper. The Labour court, may amongst other relief, direct reinstatement of the complainant in service, either with or without back wages and convert the order of dismissal, removal or discharge to any other Lesser punishment specified in section 23(2). Any person aggrieved by an order of the Labour court, may, within thirty days of the order, prefer an appeal to the tribunal, and the decision of the Tribunal on such appeal shall be final. No court-fees shall be payable for lodging complaint or appeal under this section. No complaint under this section shall amount to prosecution under this Act. Notwithstanding anything contained in this section, no complaint shall lie against an order of termination of employment of a worker under section 26, unless such order is alleged to have been made for his trade union activities or passed motivated or unless the worker concerned has been done (The Bangladesh Labor Act 2006, Section 33). No child shall be employed or permitted to work in any occupation or establishment. No adolescent shall be employed or permitted to work in any occupation or establishment unless-(a) a certificate of fitness in the prescribed form and granted to him by a registered medical practitioner is in the custody of the employer ; and (b) he carries , while at work, a token giving a reference to such certificate. Nothing in this sub-section shall apply to the employment of any adolescent in any occupation or establishment either as an apprentice or or the purpose or receiving vocational training therein: The Government may, where it is of opinion that an emergency has arisen and the public interest so requires, by notification in the official Gazette, declare that the provisions of this sub-section shall not be in operation for such period as may be specified in the notification (The Bangladesh Labor Act 2006, Section 34). No adolescent shall be allowed in any establishment to clean, lubricate or adjust any part of machinery while that part is in motion or to work between moving parts, of any machinery which is in motion (The Bangladesh Labor Act 2006, Section 39). No adolescent shall be required or allowed to work in any factory or mine, for more than five hours in any day and thirty hours in any week. No adolescent shall be required or allowed to work in any other establishment, for more than seven hours in any day and forty-two hours in any week. No adolescent shall be required or allowed to work in any establishment between the hours of 7.00 P.M and 7.00 a.m. If an adolescent works overtime, the total number of hours worked, including overtime shall not exceed- (a) in any factory or mine, thirty six hours in any week; (b) in

any other establishment, forty eight hours in any week. The period of work of an adolescent employed in an establishment shall be limited to two shifts which shall not overlap or spread over more than seven and a half hours each. An adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Inspector, be changed more frequently than once in a period of thirty days. The provisions of weekly holiday shall apply also to adolescent workers, and no exemption from the provisions of that section shall be granted in respect of any adolescent. No adolescent shall be required or allowed to work in more than one establishment in any day (The Bangladesh Labor Act 2006, Section 41) No employer shall knowingly employ a woman in his establishment during the eight weeks immediately following the day of her delivery. No woman shall work in any establishment during the eight weeks immediately following the day of her delivery. No employer shall employ any woman for doing any work which is of an arduous nature or which involves long hours of standing or which is likely to adversely affect her health; if he has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks; she has to the knowledge of the employer been delivered of a child within the preceding ten weeks: Provided that in case of tea plantation worker, a woman worker can undertake light work if and for so long as the medical practitioner of the concerned tea estate certifies that she is physically fit to do so ; and, for the days that she does such work, she shall be paid at the prevailing rate of pay for such work, and such pay shall be paid to her in addition to the maternity benefit which she may be entitled to receive under existing this Act.²⁸

Any pregnant woman entitled to maternity benefit under this act may, on any day, give notice either orally or in writing to her employer that she expects to be confined within eight weeks next following and may therein nominate a person for purposes of receiving payment of maternity benefit in case of her death. Any woman, who has not given such notice and has been delivered of a child, shall within seven days, give similar notice to her employer that she has given birth to a child. When a notice referred to in sub-section (1) or (2) is received, the employer shall permit the women to absent her from work from the day following the date of notice in the case mentioned in sub-section (1); from the day of delivery in the case mentioned in sub-section

²⁸ The Bangladesh Labor Act 2006, Section 45

(2) until eight weeks after the day of delivery. An employer shall pay maternity benefit to a woman entitled thereto in such one of the following ways as the woman desire, namely :

(a) for eight weeks, within three working days of the production of a certificate signed by registered medical practitioner stating that the woman is expected to be confined within eight weeks of the date of the certificate, and for the remainder of the period for which she is entitled to maternity benefit under this act within three working days of the production of proof that she has given birth to a child; or

(b) for the said period up to and including the day of delivery, within three working days of the production of proof that she has given birth to a child, and for the remainder of the said period, within eight weeks of the production of such proof; or

(c) for the whole of the said period, within three working days of the production of proof that she has given birth to a child: Provided that a woman shall not be entitled to any maternity benefit or any part thereof, the payment of which is dependent upon the production of proof under this sub-section that she has given birth to a child, unless such proof is produced within three month s of the day of her delivery. The proof required to be produced under sub-section

(4) shall be either a certified extract from a birth register under the births and deaths registration act, 2004 or a certificate signed by a registered medical practitioner or such other proof as may be accepted by the employer (The Bangladesh Labor Act 2006, Section 45).

Effective and suitable provisions shall be made in every establishment for securing and maintaining in every work-room adequate ventilation by the circulation of fresh air; such temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health the walls and roofs, as required by sub-section (2), shall be of such material and so designed that such temperature shall not be exceeded but kept as low as act cable where the nature of the work carried on in the establishment involves, or is likely to involve, the production of excessively high temperature, such adequate measures as are practicable, shall be taken to protect the workers there from by separating the process which produces such temperature from the work-room by insulation the hot parts or by other effective means.

Chapter 5

CONCLUSION

5.1 Recommendations

With a view to ensuring rights and safety of the workers the following policy should be maintained:

- At first we should pay concentration to improve the life securities of the workers before involving them in to work. For this government need to establish a monitoring committee to look after the matter. BGMEA and BKMEA can also monitor the minimum safety for the workers.
- The Government should be strict in putting on restrictions to the companies so that they can not underestimate the workers right. So, government should always by the side of working people and raise their legal demands and establish their rights without delay.²⁹
- Nobody care on the workers and does not try to put their attention to improve the living standard of the workers. As a result the workers should have to undergo must sufferings and hardships all over the year. The workers should be paid with their monthly wages, dues, bonus, over time payment in the right time so that they can lead a happier life all the time. Now it is time to think about the workers because they are the working from the morning till late night but paid a very tiny amount of wages is not affordable at all.
- Without workers no factories can do well in their business. The owners of RMG industries no factories are making profits but they are not about the right of the workers. The owners need to treats the workers in safe hand. Among them, good understandings need to be established. The owners need to think about the better standard of life of the workers. If they do no do so, no better result can be expected from the industries.
- Every industry should have sufficient recovery machinery to provide safe- guards to its workers.

²⁹ <http://www.Worldbank.com/bangladesh/gdp-growth>, last visited on May 27, 2015.

- The equality of products need to be improved so that the foreign buyers can be interested to buy more products from our country and in this way the basic wages of the workers can be increased.
- The Government, Rajuk and other necessary institutions should be careful to look after the bad infrastructure of the RMG buildings. No building should be raised with poor construction. In this way we can prevent future accidents and save the lives of garment workers.
- Moreover research and training should be made so that the workers can be more skilled at their work can produce more productivity in a short time. Sometime unskilled workers may be injured while working in the garments. So, by providing training we can solve the problem.
- Government policy regime and supportive government policy can help to have more productivity and increase the future development in this sector. In this way more workers can be appointed and appointed and the right of the garment workers can be ensured.
- As more than 80% of our garments workers are female, after giving birth a child they need to work for the sake of their livelihood. So, sometimes they have nobody left in their house for taking care of their children. However, for this reason they cannot pay proper concentration to their works. So, child care needs to be setup in every garments industry so that the workers can take care of their children.
- Both the BGMEA and BKMEA and other institutions working to ensure the rights of the workers need to come forward at the time of violation of workers right. But in fact sometimes we can see the leaders of those institutions are the owner of garment and so they do not feel any interest on the rights of the workers. So, a special monitoring committee can be made for solving the purpose.
- Negative industrial policy can hampers the rights of the workers. Unlimited greed of the owner side can be a result of worker harassment in their institution. When workers call for their demand industrial police attack them and sometimes the workers are seen to be carried off or cause death for this reason.
- The Labour Code, 2006 rules need to be established first with a view to establishing the rights of the workers. No un-matured girls and boys should be appointed in a garments industry.

- Safety should be ensured to the pregnant workers. They should proper amount and maternity benefits as prescribe by the law.
- Air circulation, proper ventilation, neat and clean environment, temperature safe drinking water, latrine and urinal and other necessary health protection should be made sure.
- Emergency exit at the time of unwanted accidents need to be developed in every industry. Some garments industries do not pay a specific time for breakfast and lunch. So, these nominal facilities should not be violated.
- Overtime and calculation of weekly holidays need to be handling safely as it is a prime need of the workers. No workers should be made bound to engage in overtime.
- If in any case disaster or accident occurs for the faulty transaction of the garments industry and that cause death or injuries of workers, the payment and compensation and other facilities should be given to their relatives as early as possible.

5.2 Conclusion

The labours of garments and other industries are now treated as one of the most lower class people by most of us. But the clothes i.e. shirt, pant, kamiz, Panjabi, sweater, blanket, jacket, trouser etc that we wear are gently prepared by the garments workers. In fact they are always less paid and treated negatively. Now-a-days they are sacrificing their lives for obeying command of the owners group.³⁰

In the recent few years many workers passed away from the earth for the faulty transaction of buildings or any other else. Previously Phoenix Bhaban, Specturm garments, Tazreen, Rana plaza took a massive lives of workers. But it is a matter of great sorrow that nobody who was responsible for such accidents were duly punished by the government. So, today the lives of workers are going to be sold at a cheaper price. We do not remember them for a long time. When a accident occurs we forget about another accident. Likely the same way now we are talking about the punishments of these persons who are responsible for such occurrences that took place in Phoenix Bhaban, Specturm garments, Tazreen Fashion or in Rana Plaza. In fact that day is not far when we are going to forget the scenario or the tragedy.

Actually garment workers work since morning till night for the sake of the productivity. They do so far their day to day life and livelihood. Scarcely, they get their wages and bonus in due time. Most of the garments workers are female. Again both male and female come from village for the sake of work. So, they are satisfied with fewer amounts of monthly wages. As they are poor they cannot demand nor have their rights effectively done. So their rights can hardly be fulfilled. The owner groups are not interested for their safety. They have no time and they demand more productivity from them. They forget that they are also a human being. This is not only irrational but also expression of guilty mind too.

The major finding of the study I try to write about rights of garments working in Bangladesh. That is varying important for me as a law student. I also learn about the life style, salary system, trade union, rights etc of the garments workers. I also learn about the definition of garment worker, various rights of the garments workers and other important

³⁰ Tripti Lahiri, 'Dhaka Journal: What Garments Workers Wear', *The Wall Street Journal*, vol.I, (June 2013).

term which is related with this topic. I also find this topic about various trade unions, collective bargaining agent (CBA) and various international organizations which are help to the garments workers. Also discuss how the Labour Court and Labour Appellate Tribunal work. Finally I try to give the overall discussion about the rights of garments workers in Bangladesh. In respect of Bangladesh situation we know about the garments workers law in Bangladesh and application such laws. Finally observation of all above matters we can take to solve, protection and prevention of rights of garments workers in Bangladesh.

Lastly, I discussion about the rights of garments workers in Bangladesh. Where the rights of garments workers are violated in our country. The garments workers are very important and essential person for our society. They work hard and soul everyday from morning to evening. So our Government should take any action so that the rights of garments workers are not violated.

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