

THE IMPLEMENTATION OF THE CORE INTERNATIONAL LABOUR RIGHTS REGIME IN BANGLADESH GARMENTS INDUSTRIES AND ITS CHALLENGES

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ABSTRACT

The theory of ‘core labour rights’ is the well-known set of universally established minimum best practices and safeguards in respect of some basic labour standards known as core labour standards in the world economy. This concept is devoted by ILO to promote or establish social justice and labour rights to recognise labours peace which is the most crucial part of the economic prosperity. The implementation of these measures ensures the benefits of the majority workers, rather than the rich only. This study has been prepared to examine the key challenges in implementing the international labour standards in Bangladesh garments sectors. The fundamental labour laws of Bangladesh are

designed in accordance with principles of ILO, but non-enforcement of domestic regulations indicates disobedience with international core labour standards and ILO conventions too. The qualitative method has been used in the gathering and the analysing of data of this research. This study has found that most of the rules and regulations of labour laws of Bangladesh are followed by ILO standards. However, their practical approaches show an indication of dismay. Thus, it is submitted that the local jurisdiction of Bangladesh has a poor application of international core labour standards and the ILO conventions which causes uncountable dilemmas to the humanity and the peaceful garments industries. This study has suggested that the government must take necessary steps to implement core international labour standards effectively in domestic legal system and carry out a proper observation to establish social justice and peaceful garments industries in Bangladesh.

INTRODUCTION

The “Core Labour Standards” is globally known as the set of standard codes or minimum best labour rights and safeguards designed by the ILO in June 1998. According to ATM Haidar Khan (2017), the labour rights are a combination of legal principles which protects workers from facing inhumanity in the workplace. This minimum ethic enables people to improve their freedom and dignity at standards the work. The countries which ratified the ILO convention will cover the extensively as well as the follow-up is essential to be improved. It is also reminded that an assurance to administer the Core Labour Standards in a local jurisdiction is an inherent part of obtaining a membership. Thus, when a state has ratified the standards, it needs to enforce them nationally (Chowdhury, 2017). The member states have stressed that when the core labour standards are applied for protectionist trade purposes (Global Employment Institute, 2015, p. 5) the ILO will be the competent body to set and deal with it (OECD, 2000). The ILO Conventions also motivate the member countries to renew and update the substantial mechanism and other technical initiatives, but they must be co-operative between workers and governing organs. These positive approaches have been encouraging other non-ratifying countries to join with the ILO conventions.

The labour rights seem like human rights by nature. However, variations can be seen by a deep analysis of their characteristics because many labour rights are not enunciated in human rights. It is renowned that there are four core labour standards which are enshrined in eight major ILO conventions (Global Employment Institute, 2015, pgs. 6-7) namely (a) prohibition of child labour (No. 138 and No. 182), (b) elimination of forced labour (No. 29 and No. 105), (c) prohibition of discrimination (No. 100 and No. 111), and lastly (d) ensuring freedom of association and collective bargaining (No. 87 and No. 98) Berik, 2008, p. 5). These basic standards are being repetitively articulated in international human rights declarations and instruments, such as the Universal Declaration of Human Rights in 1948, United Nation International Covenants 1948 (No. 87) on freedom of association, the Convention on the Rights of the Child in 1989 and the Declaration of the 1995 Copenhagen Summit on Social Development (Asian Development Bank, 2006).

The ILO Conventions have been ratified by some 125 States on average (Valticos, 1998, p. 140) and Bangladesh became a member in 1972. Bangladesh is officially accountable to develop international labour standards for protecting the employees from employment related problems like violence, injustice, child labour, mistreatment, unfair dismissal and misery. However, the existing labour law of Bangladesh is adopted based on the compromises between the conflicting securities of labours and employers. This law extensively covers the ethics of ILO but is subjected to limited shield with low or partial implementation (Chowdhury, 2017). Additionally, Bangladesh garments industries experience on gender discrimination and remuneration. The garment employees receive a salary well-below a living cost without having any specific benefit. About 85% of the garment workers are female who are paid less than male (War on Want, 200). Therefore, this study aims to examine how international labour rights are being violated in Bangladesh garments sectors and overcoming challenges. By analysing some devastating reported and unreported tragedies, it is found that the labour standards in Bangladesh garment industries is horrible (Khan, 2017).

SIGNIFICANCE OF CORE LABOUR STANDARDS (CLS)

The international core labour standards are the set of rules expressing how workers should be treated at the workplace. It is not meant to apply a complex legal formula to a situation but ensure a basic rule which will construct a good working environment. They cover variety of subjects essentially concerning basic human rights at workplace, guarantee for safety and health, and ensuring the reasonable wages, and good labour administration and governance, ending the mobilisation of labour for purposes of economic development or labour discipline (Valticos, 1998, p. 138). In addition, from an economic perspective, they are necessary to achieve prosperous productivity and well competitive working outcome over a long period of time. Thus, any distinction, exclusion or preference

based on race, colour, sex, religion, political opinion, national extraction, social origin or apartheid is prohibited by the ILO.

The core labour principles can be devised and formed at local and international levels. The national labour standards are normally regulated by domestic laws and some internal regulations as well as by collective agreements and treaties. In this position, they are binding on the contracting parties only. Once any agreement or rule is approved by legal system of a specific country, it is obligatory on the entire country. However, the international labour standards are usually initiated in international conventions and recommendations. They are governed to represent the universal consensus on minimum best practices on human rights generally and more precisely on labour affairs (ADB, 2006).

Similarly, the international core labour standards are being formed to facilitate labours in their work and to remove foreseeable obstacles globally. These principles are mostly expected in the perspective of human development, reforming labour market, eradicating blocks to access to working resources and opportunities, and removing discrimination at workplace. These principles and their operational consequences have been taken sensitive demands from the World Bank because of their effective mandate on poverty reduction, economic and social developments. The core values are also recognised by many multinational enterprises and international investment (Alston, 2004) to improve their economy (Kucera, 2002). Therefore, the implementation of core labour standards is very necessary to achieve sustainable industrial development in the world. There are many other reasons why the implementation of the core labour standards is necessary such as:

Establishing equality and social justice

International Core labour standards abolish gender discrimination by establishing equality between male and female. It produces key policies between employers and employees, governments and labour organisations. It helps eradicating the unequal distribution of property in a country or between countries. Thus, these principles essential in the era of globalisation to remove abusive principles from the garment segments.

Ending the ‘race to the bottom’

According to Cambridge Dictionary, the ‘race to the bottom’ is a position when companies contest with each other to minimise productive costs by providing worst working conditions and paying the lowest salary. Additionally, many countries encourage foreign investors to do business in those states by demanding very cheap production costs. These conditions often affect the decent working conditions and labour rights. Sometimes, they create ‘race to the bottom’ condition which obstructs natural productivity and forces down the wages and working conditions especially in the developing countries. Therefore, a more identical distribution of employment opportunities, productive resources and assets is very

essential to minimise these discriminations and unfair business competitions.

Preservation of human values

Decent work, freedom, equality, dignity are the most essential parts to develop a sustainable economy. Millions of people expect a productive work which will preserve human values at workplace but very rare to find. Child and forced labour are inhumane and brutal working conditions continue to exist in this global era. Therefore, the core labour standards help to design a minimum framework to preserve human values at the workplace.

Eradication of poverty

Most of the garments' workers live below the standard of the poverty line because of their low wages. The core labour standards develop the quality of employment by ensuring the bargaining power at workplace. Consequently, workers can bargain for themselves which improve their own lives as these give choice to the labours to choose job based on their needs. Similarly, the core labour standards offer rights to workers and employers to form trade organisations which bargain with employers to establish the rights of the workers. This also forms peaceful relationship between workers and employers which improve the productivity of the industry. Thus, the proper implementation of core labour standards will play a dynamic role in reducing poverty (ADB, 1998).

The effects of the International Core Labour Standards

International Core Labour Standards form a well-established working condition over the world. They improve basically in four major sectors including:

Abolition of Child Labour

Effective abolition of child labour is an important element of attaining the ILO goal of decent working conditions for all people. Children are deserved to have some distinct rights by virtue of their age. They are protected from economic mistreatment and from labour because these are hazardous to the health and morals, mental and physical development of children. Child labour hinders education, future livelihoods and damages psychological growth of children. Even sometimes a form of worst labour can intimidate their lives (ADB, 2006). These situations are intolerable violation of the universal children's rights, their economic growth and equitable progress.

The ILO Minimum Age Convention 1973 (No. 138) and its accompanying Recommendation (No. 146) declares that the basic minimum age for child labour in developing countries is 14 years old or the end of compulsory schooling whereas in a developed country is 15 years old or the end of compulsory schooling. In addition, the Convention sets a minimum age of respectively 12 and 13 for "light work" which is

not likely to be harmful to the health or development of the young persons concerned and is not prejudice their attending at school or their involvement in vocational orientation or training programs. A higher minimum age was designed for hazardous or risky labour.

The Worst Forms of Child Labour Convention 1999 (No.182) and its Recommendation (No.190) allow the worst forms of child labour only at urgency situations. Similarly, the United Nations adopted a Convention on the Rights of the Child in 1989 which is applied to child labour. This convention has been authorised by almost all States in the world. Therefore, the abolition of child labour is an investment for the next generation. Child labour prevents this investment by keeping the children of the poor out of school and limits their prospects for training, upward social mobility, and, ultimately, access to decent work as adults (ILO, 2001). Thus, this malpractice must be abolished in every country to achieve a prosperous economy in this world.

Elimination of Discrimination in Employment and Occupation

Employment and occupational discriminations are the most common labour malpractices all over the world. The former has basically two forms like direct or indirect. A direct discrimination is when regulations, laws, and policies explicitly exclude or disadvantage workers on the basis of characteristics such as political opinion, marital status or sex. Prejudices and stereotypes are normally at the heart of direct discrimination. Indirect discrimination is when workers are confined to specific work or working low wages because of their gender, religion or skin colour. This situation becomes worst when the discrimination is formed based on certain group like women, ethnic and racial minorities, and migrants (UNIFEM, 2000). On the other hand, the occupational discrimination arises in access to a job while performing work or through dismissal. This does not result just from isolated acts of an employer or a worker or from a single policy measure but labour market processes, practices and institutions either generate and reinforce or break the cycle of discrimination. These discriminations can be found with regard to remuneration too (ADB, 2006).

The ILO Equal Remuneration Convention 1951 (No. 100) and its accompanying Recommendation (No. 90) is the first binding international instrument which promotes gender equality. According to this convention, the equal payment between male and female could not be achieved without eliminating discrimination in employment and occupation (ADB, 2006). Later, the ILO adopted the Discrimination (Employment and Occupation) Convention 1958 (No. 111) along with its Recommendation (No. 111), which address all forms of discrimination concerning employment and occupation.

Eradication of All Forms of Forced or Compulsory Labour

Forced labour is the most complex challenge facing local and international organisations at this global era (ILO, 2001). It has two common features namely the exercise of coercion and the denial of freedom. The coercive

practices of forced labour originated with colonial regimes of the early twentieth century. In following that it came to the concentration camps, labour camps, and other forms of compulsory labour. The denial of freedom was found in agricultural systems when landowners have been the only source of finance or when people have no choice but to join and accept the proposal (ADB, 2006). The indigenous and tribal people may be involved in force labour in large number even at this modern time (Policy guidelines are given in: ADB, 2004). According to the ILO and Global Report, about 12.3 million people globally are victims of forced labour and more than 2.4 million of them have been trafficked. Furthermore, about 9.8 million are exploited by private agents and 2.5 million are forced to work by the government or by rebel military groups (ILO, 2005).

The ILO's Forced Labour Convention 1930 (No. 29) defines that forced labour 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". The Abolition of Forced Labour Convention 1957 (No. 105) of ILO also provides that forced labour can never be used for the purpose of economic development or as a means of political education, discrimination, labour discipline, or punishment for having participated in strikes with some exception specified by the convention No. 29. The United Nations and international agencies believe that the forced labour would be abolished either with economic and social development or with the promotion and protection of human rights (ADB, 2006).

Ensuring the Freedom of Association and the Effective Recognition of the Right to Collective Bargaining

According to the nature of this notion, the workers and the employers can mutually bargain about their rights and obligations on a collective agreement. This agreement is normally designed to benefit both employers and employees to have more balanced relationship (ILO Conference, 2000)). It also provides the procedures for fair claims and resolution. However, it fetches more protection to labours and their organisations against action taken by anti-corruption or employers or governments (International Labour Conference, 2004). The purpose of such safeguard is that access to safe and productive work is a critical factor in reducing poverty, and the legal framework surrounding employment is a central issue for job creation and worker protection (World Bank, 2002). Nowadays, this mutual contract is formed as "social dialogue". This dialogue is organised to ensure the social and economic development and good governance. Based on ILO conventions, the term "social dialogue" connotes all types of discussion, negotiation or exchange of information among or between representatives of labours, employers, and governments, on matters connecting to economic and social rulings.

The ILO adopted two main conventions on freedom of association and the right to collective bargaining namely the Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention 1949 (No. 98) which are represented as the twin conventions on the subject (ADB, 2006). According to these inherent conventions, freedom of association and the right to collective bargaining must be enjoyed by all workers as well as employers.

EXISTING LABOUR LAWS AND POLICIES IN BANGLADESH

Bangladesh, a dynamic member of the ILO, has ratified all eight core labour standards related conventions (Chowdhury, 2017, p. 79). The labour law of Bangladesh is designed on the principle of social justice which is the cornerstone of ILO's core labour standards. The ILO Office also works in close cooperation with Bangladesh to create a decent work situation in the country (Khan, 2001, p. 122). This law comprises of statutes, rules, policies, case laws and trade practices which contain both substantive and procedural rules prescribing the means to get redress against violations of labour rights (Islam, 2022).

On July 15, 2013, Bangladesh Government had made amendments to the Labour Act 2006 which had some contrary rules to the ILO's major Conventions to ensure that the labour law of the country is more in line with ILO's labour standards (Islam, 2018). This law is very comprehensive and speaks almost all basic rights of workers including employment conditions, operation of trade union activities and industrial relations, minimum wages, working hours and leave, compensation for occupational injuries and death, settlement of industrial disputes, occupational health and safety, social security, labour administration, freedom of association and right to bargaining, and other labour related matters (Mia, 2022).

In 2013, Bangladesh Government drafted laws on Export Processing Zones (EPZs) with the title the "Bangladesh EPZ Labour Act 2013". The government also developed National Occupational Safety and Health (OSH) Policy 2013 with financial and technical support of the ILO. Later, these laws were checked by the ILO and commented that the new laws form mostly in line with the international core labour standards and protect the interest of government, employers, labours and civil societies. Moreover, there is National Skills Development Policy 2011 which is to develop a national policy for Technical and Vocational Education and Training (TVET). This project was also a major outcome of the ILO and European Commission-funded TVET Reform Project. Furthermore, Bangladesh successfully implemented the Overseas Employment Policy 2013 which was formed by the ILO to develop legal and policy frameworks, systems and services relating to labour migration (ILO in Bangladesh).

IMPLEMENTATION AND CHALLENGES OF CORE LABOUR STANDARDS IN BANGLADESH

By analysing some devastating events, it can be acknowledged that labour right in Bangladesh is not implemented with the international labour rights standards. Some flawed factors are discussed in following;

Defective Working Conditions

During the last few decennaries, Bangladesh has achieved an economic progress mainly by exporting garment products. It garments industries generate over three-quarter of the country's total export revenue. However, the working conditions at the garment industries have been among the most atrocious in the world garment industry including harsh working conditions and low wages. Many recent events at the garment sectors indicate the occupational health and safety risks in Bangladesh. For instance, a factory fire killed about 117 labours in November 2012 and in April 2013, the collapse of Rana Plaza killed more than 1200 garment workers which is one of the worst industrial tragedies in the globe (ILO, 2013, p. 29). According to the Bangladesh government report in 2014, there are about 44,347 labour law violations in garment factories and their establishments (Chowdhury, 2017). However, the Government did not provide adequate remedies and regulatory enforcement to overcome these hazardous working conditions (ILO, ILS, 2013, pgs. 1-2). Thus, garment workers can hardly get benefits from the national labour laws.

Weaknesses Labour of Laws

The labour laws of Bangladesh do not transform to the international core labour standards due to the weak enforcement, proper observation or obedience of laws (Islam, 2020). The factory workers face health and safety risks because of improper inspection by the law enforcement authorities. As a result, many dangerous sectors like garments, ship breaking, re-rolling mills, construction cause industrial tragedies (Langille, 2005). For instance, the collapse of Rana Plaza killed more than 1200 garments workers in 2013. The investigation report showed that the building was outdated and full of risks. Even the victims of the tragic accident did not get appropriate damages due to lack of proper enforcement of local labour laws (Jalil, 2020). Thus, hazardous working situations are continued as there is no adequate regulatory oversight and enforcement of laws.

Arbitrary Mechanism

The 'hire and fire' is one of the most dangerous approach taken by employers in garment sectors. The approach of 'freedom of contract' is there, but no suitable mechanism to ensure the responsibility of employers. The main labour law of Bangladesh designed to centre the benefit of employers or industrialist while a little importance is absorbed on their accountability to the labours. In some cases, the labour law covers certain formal sectors and ignore informal segments which opposes the spirit of

the ILO's Equal Remuneration Convention (No-100) (Chowdhury, 2017). Sometimes, labours are also arbitrarily dismissed from employment.

Poor performance of Association

Bangladesh is among the weakest union rights countries in Asia as it has failed to implement trade union rights and anti-discrimination regulations. The EPZ has no union activity to encourage foreign investors to do business in the country. According to the World Bank surveys on the investment environment, a very small number of workers are involved in union, but their function is effectiveness as representative of workers' interests because of their political involvement (Berik, 2008, p. 14). Thus, weak performance of association is considered one of the major obstacles to establish international core labour rights in Bangladesh.

Gender Discrimination

Gender discrimination is another major hindrance of development in garment sectors of Bangladesh. Country-level research in 2002 indications that when men and women did the same kind of jobs, there was still a difference in wage favouring men (Rahman, 2002). Women are closely involved in the high-level of public jobs, but they are dominating private sectors particularly the garment industries. At this stage, both men and women are at the low level of education while male workers get more salary comparing to female (ADB, 2006). There are many gender discriminations in the country such as women are having lack of job alternatives, segregated to involve in union activities, very rare to increase minimum salary and so on (Berik, 2008, p. 15). Women's rights are not protected from the very beginning of employment. Therefore, an equal recognition must be needed to evaluate the contribution of women in economic development of Bangladesh.

TIME FOR EFFECTIVE IMPLEMENTATION OF DECENT LABOUR RIGHTS IN BANGLADESH

The labour laws of Bangladesh are proved to be ineffective in practice because of improper enforcement strategies. An explicit application of international core labour standards may be an appropriate mechanism to eradicate bad working conditions in Bangladesh (Chowdhury, 2017, p. 80). Few steps must be taken to enforce labour laws and the ILO's core labour principles in Bangladesh including:

Eliminating of arbitrary confinement and dismissal of labours

In recent years, Bangladesh government has rejected lawful labour movements and also ignored bring trade union laws in practice. For instance, when garments workers carry non-violent strikes for higher wages and dignity at work, the government announces a full-blown attack on the trade union activists and workers and arrests many labour activists and issues legal charges against hundreds of "unnamed workers" to threaten them to carry on the protest. Many labours and union activists are

arbitrarily detained who continue to speak out (Clean Cloth Campaign, 2017). Similarly, employers have engaged in mass and illegal dismissals of workers. They accuse labours without evidence of participating in the industrial misconducts. Many labours are being forced to sign severance agreements with factories and told to leave the area under fear of further arrests. In this situation, a cooperative relationship must be built up between employers and employees to achieve better productivity in the garment sectors. Thus, the government and employers should not use their power arbitrarily to detain and dismiss the workers from employment.

Improving occupational health and safety

A comfortable working condition in both formal and informal is a key factor for industrial growth (Islam, 2020). The Office of ILO has highlighted several actions to be taken to improve safety and health at garment factories in Bangladesh which includes ordering an urgent inspection on labours and in all factories, installing a proper fire extinguisher, and empowering (ILO, ILS, 2013, pgs. 7-8).

Strengthening wage formulation

A standard wage may encourage workers to perform their acts in perfect to increase the productivity of the company. Bangladesh is one of the major countries who are earning foreign remittance by exporting garment products. However, it is experiencing the lowest and unpredictable salary comparing with China and Vietnam. It is very seldom that the government or employers increase wages or make a wage adjustment without strikes and mass protests. Therefore, employers should review from time to time the needs of workers and increase minimum wages if necessary to bring a peaceful working condition which is helpful to improve the productivity of the industry.

Promoting social dialogue and freedom of association

A fruitful social dialogue can bring employers and labour activists together which can build up globally recognised labour standards. This also can promote freedom of association where labour unions will be able to work effectively with peace and harmony. Thus, this will empower unions to defend labours' rights, interests and to build up healthy and safe working conditions.

CONCLUSION

This study has evaluated the operation of the ILO's core labour standards in Bangladesh garments industries. It is identified that Bangladesh government has amended the international labour standards into the domestic laws, but the implementation is in vague. It is also revealed that the enforcement of the standard rules in the country widely depends on the mechanism taken during the conflicts between employers and employees. They are using labour standards for their protectionist trade purposes which is prohibited in international core labour laws (OECD, 2000).

Therefore, the Alternative Movement for Resource and Freedom Society (AMRF) in 2012 suggested that the policies should be taken more rationally to promote and preserve core labour standards in Bangladesh (Khan, 2017). This study has proposed that the government should take an adequate measure including implementation of present labour laws with amending fines as well as punishments against the violations to avert labour discriminations and to improve working environment.

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