Imperfect work conditions in Bangladesh RMG sector

Vishal Sharma

University Business School, Himachal Pradesh University, Shimla, India

Abstract

Purpose – The purpose of this paper is to reflect on the effectiveness of labour law in Bangladesh and provide suggestions to improve working conditions in the country.

Design/methodology/approach – The article provides an analysis of the factual impact of labour law in Bangladesh.

Findings – The study reveals the appalling condition in the ready-made garment industry. The factory owners tend to bend the laws and exploit the workers.

Originality/value – The paper offers some suggestions to improve the working conditions of the workers in the garment industry of Bangladesh.

Keywords Bangladesh, Garment industry, Labour law

Paper type Conceptual paper

Article 14 of the Bangladesh Constitution states that “It should be a fundamental responsibility of the state to emancipate the toiling masses – the peasants and workers – and backward section of the people from all forms of exploitation[1]”. But even after more than 40 years of independence, the condition of workers in Bangladesh is not even close to the constitutional vision. The country needs both economic and political reforms to achieve inclusive growth.

Bangladesh has adequate labour resources and that is the reason that economic prosperity of country is dependent on the labour market. The reforms in the labour market are crucial for the any country. The labour market is one of the most important mechanisms for transmitting the benefits of economic growth to different groups in society.

The government adopted the policy of industrialization during 1990s to reduce poverty and increase economic growth. But few economist states that the policies approach was not appropriate, and there is still widespread unemployment and poverty[2]. There are presently 47 million people below the poverty line, with about 26 per cent of the population living under poverty threshold[3].

There has been a shift in the labour market in the country, as over the period of time, the employment in agriculture sector has declined. While, the employment in the manufacturing and services sector has increased[4]. The share of industrial sector in gross domestic product has increased to 29.73 per cent in 2008-2009 from 17.31 per cent in 1980-81. It must be noted that unemployment rate increased both for men and women during 1990s[5]. Although women comprise one-fourth of the total labour in the country, only a small percentage of women can be categorized as skilled workers, which is much lower than that of male workers (BBS, 2009).

There has been a significant change in the composition of the labour force in the manufacturing sector in the past two decades. However, there have been many reports
of human rights violation and worker’s exploitation from various parts of the country. There have been many protests to improve working conditions in the recent years. Those employed in the private sector does not enjoy the benefits of transportation, insurance, pension, accommodation and provident fund as enjoyed by those employed in the public sector. There has been reports that labour employed in the private sector are subject to long working hours, delayed wage payment, unhygienic and unsafe conditions.

The readymade garment (RMG) industry has been one of the important drivers for the country. Bangladesh has close to 5,000 garment factories which employ about 3.6 million workers. In terms of total number of factories, Bangladesh is ahead of other South Asian Suppliers such as Indonesia, which has 2,450 factories, Vietnam, 2000 factories and Cambodia, 260 factories (McKinsey report, 2013). According to Mckinsey, there will be high growth in Bangladesh RMG Industry in the next decade.

However, the country needs urgent reforms in the labour market in the wake of the dreadful human loss in the recent building collapse. The country enjoys a good supply of cheap labour, that is the reason many international garment manufacturers have outsourced their manufacturing activity to the garment industry to Bangladesh. Bangladesh’s garment industry is estimated to be worth $20 billion[6].

Although, the government has tried to introduce reform in the labour market by revising Bangladesh Labor Law in 2006, it still fails to address serious issues of safety of workers. The trade unions have, time and again, highlighted the legal shortcomings of the law and unsafe working conditions.

History of Bangladesh labour laws

Bangladesh has adopted a revised Bangladesh Labour Law in 2006. The revised law brought changes in the area such as hygiene and safety and labour welfare. Before the revision of the law, the country followed an archaic law which was passed in 1881 during the colonial rule in the Indian sub-continent. There were many amendments made to the act by the British Government such as, Worker’s Compensation Act, 1923; The Children (Pledging of Labour) Act, 1933; The workmen’s protection Act, 1934; The dock Labourers Act, 1934; Payment of Wages Act, 1936; The Employer’s Liability Act, 1938; The employment of children Act, 1938; Maternity Benefit Act, 1939 and The Mines maternity Benefit Act, 1941 (Bangladesh Labor Law, 2006). After the partition of India (Bangladesh was part of Pakistan), the same old labour laws were followed with some modifications. After independence of Bangladesh in the year 1971, the Government followed the same laws under the aegis of Bangladesh Law Orders (President’s Order No. 48).

To align its labour market with the International Labor Organization (ILO), the Bangladesh Government adopted the Bangladesh Labor Law (BLL) in 2006. The BLL can be considered as merger of 25 different acts. BLL extensively covers areas such as condition of service and employment, maternity benefit, health and hygiene, safety, welfare, working hours and leave, wages and payment, workers compensation for injury by accident, trade unions and industrial relations, workers participation in companies’ profits, provident fund, regulation of employment and safety of dock workers, apprenticeship, administration, inspection, etc.

The revised Bangladesh Labor Law was a step forward because it not only includes labour working in factories but also workers and staff of nursing homes, hospitals and even agricultural farms employing more than ten workers. Certain welfare have been
improved, such as, workers employed in private sector will also enjoy the benefit of provident fund; group insurance scheme for companies employing 200 or more than 200 workers; financial support to the family of deceased workers; maternity benefit expansion from 12 to 16 weeks; and increased compensation for work-related injury, disability or death.

30 Shortcomings of revised Bangladesh Labour Law

The Labour Law, 2006, has serious shortcomings as has been identified by the recent labour unrest in the country (Tamanna, 2010), especially the RMG sector.

Working conditions

It has been widely reported that many employers are hiring temporary workers to avoid paying for the welfare of the workers. The law itself has classified workers into various categories (badli, casual, probationer, permanent, apprentice, temporary), and this has led many employers to hire non-regular workers. It is very easy to terminate an employment and it is not mandatory to provide reason to workers, and the notice period for non-regular worker is quite short. After termination from the job, the procedure for getting financial benefits is quite lengthy and cumbersome. In the event of retrenchment and discharge, an employee must prove that he worked in the establishment for a period of minimum one year. Seeking separation benefit in the event of resignation from the job is also difficult and a worker has to give prior notice. The BLL gives right to the employer to terminate the employee immediately without any notice in the event of gross misconduct. This clause has been misused numerous times, leaving worker helpless and losing all right to compensation and other benefits.

Although the law prohibits the employment of women workers during the late hours from 10:00 a.m. to 6:00 a.m., it also relaxes this rule by allowing employers to engage women worker who are willing to work at night.

The law has failed to clearly define the composition of basic salary. It is silent about the basis of any deduction in salary. At the same time the mandatory review period of minimum wage is five years given the current state of inflation. There are workers especially employed in RMG sector who are paid a fixed piece rate for each unit produced, for such workers, how overtime pay will be calculated is not spelled out in the law. The law has provided distinction between different types of leaves, but is discriminatory as the level of leave entitlement is not same for different level of workers. The law specifically mentions that in order to enjoy maternity benefits, the worker should have attained minimum six months of tenure within the establishment, this makes temporary workers ineligible for maternity benefits. The provisions related to prohibiting child labour are also dubious as the law states that establishments can employ children upto 12 years of age who are engaged in work not endangering his health and interfering with his education. BLL prohibits forced labour but at the same time fails to mention any legal punishment against its use.

Occupational safety and health

The Bangladesh Labour Law (2006) states that no work-room in an establishment should be overcrowded to such an extent which might be injurious to workers health, but fails to specify the number of workers according to the room-space. The law states that there should be adequate number of latrines and urinals, but does not mention what qualifies as an adequate number. The law is also silent on ratio of alternative exit or
other apparatus against the number of workers in case of fire or other accident. BLL also
fails to specify the weight limit which each worker has to carry or move. The law states
that if a worker find any machinery or building in an establishment in a dangerous
condition then he can inform the employer in writing about this, rather than the building
or factory inspector.

Welfare and social protection
The Bangladesh Labour Law makes provident fund and insurance for workers
mandatory only if an establishment employs a prerequisite number of workers, which is
quite high (European report on development, 2010). The compensation for work-related
injury or death is not adequate and makes discrimination between adult and adolescent
worker. The law is silent on the provision of medical and life insurance and pension.

Trade unions and industrial relations
The new law bans the offices of trade union within 200 yards of an establishment, which,
practically limit the scope of trade union activities[7]. The law gives its consent to the
functioning of three trade unions in an establishment but an amendment to the law
states that establishment in Chittagong and Mongla sea port can only have one trade
union. The law also states that no worker at the same time can have become a member
of more than one trade union. The law is restrictive in the sense that the formation of new
trade union in an establishment requires support of minimum 30 per cent of the workers.
This makes it difficult for the new unions. The law directly violates the principle of
association and collective bargaining[8] in the sense that it imposes ban on strike in
some industries, such as three year ban on new establishments and factories which are
owned by foreigners or in which there is a foreign partner.

The law strictly prohibits the participation of workers in trade union activities
during the office hours. This again is an assault on the concept of collective bargain. The
law does not help workers in the event of factories’ shutdown, even though the intention
of employer is to destroy the union by temporarily closing down the factory. The
registration of trade unions has been made mandatory under the law. This is
detrimental to the workers who are uneducated and employed in the small factories. In
the event of rejection of the application for the registration of new trade union by the
Director of Labour, the new law stipulates that the applicant has to file for appeal before
Labour Court within 30 days of the application rejection. This is a short time considering
the new unregistered union has limited time and money.

Lingering hope
The law was never hailed as a breakthrough but, yet, there were expectations which
were partly fulfilled by the law. A lot is still needed to be done. The law does not
explicitly mention the punishment in case of the violations such as the use of forced
labour in the establishment. There are circumstances where there is condition of
imposing fine on employer such as Tk5,000 for violation on employment of child labour,
not honouring the provisions on maternity leave and minimum wage. There are also
scenarios where the penalty for non-compliance does not seem rational, such as
imprisonment up to one year on not following the provisions on minimum wage but not
in the event of dishonoring the provisions on maternity benefits and child labour.
Another problem is not adequate inspection carried out by labour inspectors, which is
also not improving labour conditions in the country.
Decent work and social compliance

The ILO has created a decent work agenda, to uplift the working conditions of workers. Decent work underlines the workers expectations regarding their workplace[9]. The objective of decent work is to provide opportunities of employment which offers fair income, social security for workers and their families, freedom of expression at work and equal treatment for both men and women. The ILO decent work agenda has four strategic objectives: job creation and development of employment, ensuring standards and rights at workplace, social security and social dialogue.

The Bangladesh Labour Law (2006) is an amalgamation of all the previous labour laws in the country and has brought labour reforms. But in terms of decent work agenda, it has fared poorly. In terms of safe work environment, some progress was made in the first half of the past decade, but in recent years, the number of fatal and non-fatal accidents has increased (Decent work country profile Bangladesh, 2013). The government of Bangladesh has recognized these shortcomings, and in the sixth five-year plan (2011-2015), it has adopted strategies aiming to increase competitiveness and reduce poverty by pursuing the objective of economic growth with labour intensive investments.

Social compliance in the garment industry

The working condition in Bangladesh garment industry is appalling and often, workers are not aware of their rights[10]. But one of the major issues plaguing the Bangladesh Garment Industry is compliance[11]. In 2011, McKinsey conducted a survey and interviewed Chief Purchasing Officer of garment importers based in the USA and the European Union (McKinsey report, 2013). They cited compliance as the second most important factor after infrastructure in the Bangladesh garment industry. The industry has valid economic reasons to fulfil its responsibility in meeting the social compliance, as failure to do so might led to losing global markets and losing its competitiveness as a garment exporter. This could trigger serious consequences such as millions of workers losing their jobs and endangering the economic growth. This highlights the importance of enforcing compliance in the garment industry.

The acceptable human resource practices are not followed in the garment industry. No appointment letter is given and workers can lose job at any moment. The job insecurity is highest among garment industry workers' relative to the other industries in Bangladesh (Majumder and Begum, 1997/2000). There are also issues regarding the work hours in the Bangladesh garment factories. There are no set work hours, and some reports suggest that workers have to work till wee hours and no overtime is paid to these workers.

The other major problem encountered by workers is unsafe and unhealthy work environment. It is reported that number of occupational injuries (till 2011) has increased as compared to the past decade (Decent work country profile Bangladesh, 2013). The compensation is hardly given to workers even in case of serious injuries (Muhammad, 2008). The occurrences of accidents suggest that occupational safety and health norms are violated at the workplace (Paul-Majumdar, 2002).

The government of Bangladesh has not ratified various ILO’s convention related to occupational health and safety such as, the Social Security (Minimum Standards) Convention, 1952 (No. 102) or the Employment Injury Benefits Convention, 1964 (No. 121); the Occupational Safety and Health Convention, 1981(No.155); the Occupational Health Services Convention, 1985 (No.161); and the Promotional
Framework for Occupational Safety and Health Convention, 2006 (No. 187). Although these conventions are not yet ratified in Bangladesh but many of the suggestions and recommendations of these conventions have been practiced, to some extent, through the implementations of existing various laws and regulations (ILO, 2013).

The Labour Law mentions the provision of minimum wage to the workers, but it is hardly followed by the factory owners. The wages were increased last time in November 2010 since the year 2006 (McKinsey report, 2013), in the wake of rising living expenses and inflation.

In the garment industry, there are more female workers than male. The main reason for this is assembly line production and lower wages paid to female workers (Majumder and Begum, 1997/2000). According to the wage survey conducted in 2007 by Bangladesh Bureau of Statistics, the hourly wage of female worker in the manufacturing sector is 75.7 per cent of hourly wage of male workers (Kapsos, 2008). This is also true for the readymade garment industry. One of the main reasons cited for the lower wages for female worker is higher growth of female worker compared to male workers which have led to oversupply of female workers in the country (Rahman and Islam, 2003).

International code of conduct with local employers: the importers have tried to maintain their own code of conduct and the supplier have to meet them to procure orders from them. Sometimes, these standards are quite detailed and explicitly mention what needs to be done and what to be avoided, and in some cases, it just lays down the acceptable practices (Douglas, 2001). The best example in this regard is Nike. The global leader had a tarnished image in terms of conditions of workers employed in its supplier’s factories in Vietnam and other countries. Its products were labelled as made in “sweatshops (Richard et al., 2007)”. The company established a code of conduct highlighting the labour and workplace standards in 1992 for all its suppliers around the world. Nike has established internal inspection tools such as SHAPE audit (acronym for Safety, Health, Attitude of management, People Investment and Environment) and MESH (Management, Environment, Safety and Health) programme to improve workplace environment. Nike also hires the services of external consultants to review the labour practices at their supplier’s factories. Nike has 80 dedicated employees who monitor the labour and workplace activities in the supplier’s factories (Nike, 2002). Other companies such as Adidas, Gap, Reebok, Disney, Wal-Mart, H&M and Levi’s have started similar programmes to improve labour conditions at their contractor factories.

Non-governmental regulation can also help to implement ILO’s standard in the country. Many people consider these regulations as more efficient and effective than traditional government regulation (Bernstein, 2001). For instance, non-governmental organizations (NGOs) are better placed to push non-compliant governments to increase transparency and provide requisite support. One such NGO in the USA is SA8000, a voluntary workplace standard established in 1997, similar to International Organization of Standard Systems (such as ISO 9000 and ISO 14000). SA8000 was established by the Council on Economic Priorities, an American NGO. Social Accountability International (SAI)[12] administers the working of SA8000. The advisory board of SA8000 consists of representatives from multi-national companies, NGOs and international unions. SAI encourages factory management to implement SA8000 standards and get it audited by accredited auditors. SAI provides training to the factory managers, workers and auditors and has the responsibility to accredit the auditing firms. SA8000 is being used in over 3,000 factories, across 66 countries and 65 industrial sectors[13]. SAI also
publishes a list of factories honoring the SAI code of conduct. Similarly, there is Ethical Trading Initiative in England and Fair Wear Foundation in The Netherlands. In the garment industry, the chemicals used can be toxic and harmful to workers if they exceed certain limits. In America, Occupational Safety and Health Administration is consulted to set up permissible limits for toxic substances at the workplace. In Bangladesh, no such agency exists, which can set up various standard limits for the working environment (ILO, 2013).

The bilateral trade agreement between two countries can also be critical to enforce labour standards in the supplier country. United Nations started better work programme in Cambodia, known as Better Factories Cambodia[14], in 2001. ILO served as a governing agency for the trade agreement, and this programme has drastically improved the labour conditions in the country. Since then, this programme has been implemented in Indonesia, Haiti, Lesotho, Vietnam, Jordan and Nicaragua.

It can be inferred that better human resource management (HRM) can play a vital role in enforcing decent work agenda in the garment industry of Bangladesh. Modern HRM can ensure that labour standards are enforced and workers have the right to safe and healthy environment.

Conclusion
The Labour Law in Bangladesh needs to be updated regarding provisions in employment standards, health and safety, social welfare and social protection. The legal provision needs to be strengthened regarding collective bargaining and trade unionism. There is scarcity of building and labour inspector in the country, and it has been even acknowledged by the European Union Inspection Committee. The Government of Bangladesh, International Labour Organization and the European Union have signed a memorandum of understanding on 8 July 2013 and agreed to hire 200 more inspectors by December 2013[15].

The government should strive to align Bangladesh Labour Law with the norms of the ILO and pursue the agenda of decent work. Increasing social dialogue among workers and employers is important to achieving decent work agenda. In this context, the BLL should allow workers to form unions, particularly in the garment industry. The government should consider:

- Abolition of the criteria of the support of the minimum 30 per cent of the workers to form trade union.
- Removal of three-years’ strike ban on new establishments and factories which are owned by foreigners or in which there is a foreign partner.
- Granting right to unions to call for a strike in an establishment with a simple majority rather than the condition of having consent of the 75 per cent of workers.
- The law should acknowledge the importance of collective bargaining and trade unionism and remove all the barriers to form union in an establishment.
- The workers should have the right to choose their leader without any fear or persecution.
- The law should be amended to empower workers and restrict employers to adopt unfair practices against the union members.
• The law should stress that creation of trade union will lead to harmonious relationship between management and workers.
• The law should relax the norms governing the number of trade unions recognized in any establishment.

To avoid the exploitation of workers, the government should consider:

• The law regarding the employment of short-term workers should be amended to avoid their exploitation.
• The government should enforce strict fine against the employer in the event of employment of child labour, forced labour or not providing weekly off to workers.
• The law should remove barriers so that compensation for work related injury or in case of termination of employment can be claimed immediately by the workers.
• Elimination of discrimination between workers based on caste, religion, gender etc.
• The social welfare and social protection schemes should be enforced more strictly to safeguard the interests of workers.
• The law should revise the provisions regarding worker dismissal on the ground of serious misconduct, and the worker should be given the right to be heard through a transparent and fair process.
• The principle of due process should be enacted and applicable in the event of suspension and termination of workers.
• The labour inspection process should involve unions so that there are less chances of workers exploitation.
• In the terms of building safety, the workers should be granted the right to approach the appellate authority directly rather than through employer, in case the circumstances demand immediate action.
• The maternity law should be upgraded, and it should not hinder the employability of married women.
• The law should specifically mention how to calculate the over time for the piece-rated workers.
• There should be a commission consisting of factory owners, government representatives, garment importers, workers union representatives and other stakeholders, to set up a minimum wage structure. There should be a compliance cell to inspect if the guidelines for minimum wage are being followed in an establishment or not.

There are numerous instances where it has been noticed that the factory owners are not following the acceptable behaviour outlined by the government as per the Labour Law. The government has failed to provide a safe and healthy work environment. Some writers maintain that government is reluctant to act against these factories as garment industry is the major foreign exchange earner for the country. It is true, that garment industry provides employment to millions and has played a critical role in boosting the economic development of the country. At the same time, in the pursuit of economic development, many lives have been sacrificed as is evident by the increasing number of
causalities in the factory related accidents in the garment industry. The workers are demanding their right to have a safe work environment and that is the reason, seldom, there are lockdowns in many factories. The government needs to address the worker’s concern and strengthen the Labour Law. What the country really need is to make a mechanism where these laws will be enforced lawfully to protect workers right and maintain the workplace safety.

Notes
4. According to Statistical Yearbook of Bangladesh.
5. The labour force participation of women increased during 1990s, while there was a slight decline in men labor force participation.
7. Industrial relation is the relationship between management and workers in an establishment.
8. Collective Bargaining represents a procedure where employer and members of a trade union (which represent employees) negotiate to improve the working conditions at the factory.
10. Social compliance is a process, under which the company takes cares about the health and safety of its workers. It also includes companies’ accountability for safe practices.
11. Compliance is a condition in which something is in accordance with accepted norms and regulations.
12. SAI strives to protect worker’s integrity globally and make businesses more accountable to advance the human rights of the workers.

References


About the author
Vishal Sharma is a Research Scholar at the University Business School, Himachal Pradesh University, Shimla, India. He has conducted research in the field of economic and human progress in India. His current research areas include freedom of speech over Internet and development of economic infrastructure in rural India. He has conducted research on varied topics such as economic gap among Indians, human rights issue and the freedom of expression and the linkage between environment degradation and development. Vishal Sharma can be contacted at: pavel_vishal@rediffmail.com

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