



**National Human Rights Commission, Bangladesh**

**SECURITY AND SAFETY NET OF  
GARMENTS WORKERS:  
NEED FOR AMENDMENT OF LABOUR LAW**

June 2014

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## **Disclaimer:**

The study data, analysis, opinions and recommendations contained in this report are those of the authors. They do not necessarily represent or reflect the views or opinions of the National Human Rights Commission (NHRC).

June 8, 2014

Director (Administration & Finance)  
National Human Rights Commission  
Dhaka, Bangladesh.

**Subject:** Submission of study report on ‘Security & Safety Net of Garments Workers: Need for Amendment of Labour Law’.

Dear Sir,

On behalf of our team, I am very glad to submit (both soft copy & hard copy) the study report on ‘Security & Safety Net of Garments Workers: Need for Amendment of Labour Law’. This study has employed both qualitative and empirical approach because of its apparent mixed nature of problem with a view to achieving the best outcome of the research. It has also congregated information to make the study report specific and articulated through the procedure of collecting and using necessary data from relevant sources. In the empirical part of the study only the garments workers have been interviewed. To make the study more comprehensive other stakeholders, such as, owners and regulatory bodies officials are not interviewed due to time constraint.

The main objective of the study is to justify the status of compliance regarding security and safety net of garments workers in Bangladesh. It has examined by international legal frame work, especially with the core eight ILO Conventions and national legal frame work i.e. Constitution of Bangladesh, existing labour laws dealing with the same agenda. Considering above all a recommendation has also been made in this regard.

The study is basically confined on Readymade Garments sector within Dhaka and outskirts of Dhaka. It has not investigated the EPZ workers who are not covered by the Bangladesh Labour Act, 2006.

I sincerely hope this report has fulfilled the requirements suggested by National Human Rights Commission, Bangladesh. If you have an question please do not hesitate to contact me.

Sincerely yours



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## Acknowledgements

At the very outset, we would like to extend our heartfelt thanks to the main stakeholder (Garments workers) for cooperating us in conducting the empirical part of the study. We are indeed gratified to a number of garments factories and people for conducting this study. We also express our gratitude to some institutions for using their secondary data on compliance of security and safety net garments workers in analytical part of the study. Basically the documents of the Bangladesh Institute of Labour Studies, International Labour Organizations, Bangladesh Garments Manufacturers Exporters Association, and American Senate Report were very handy in preparing this study.

This study has been supported by the National Human Rights Commission (NHRC), Bangladesh. So, we are indeed grateful to the NHRC for extending their kind collaboration. We sincerely hope this report will fulfill the requirements suggested by NHRC, and we tried to gather information to make the report specific and coherent through the procedure of collecting and using necessary data from relevant and reliable sources.

We must thank to the whole team members, for their sincere, sagacious, and cooperative attitude from the very beginning to the end in accomplishing the whole task.

We would like to articulate our immense admiration to Professor Dr. Mizanur Rahman, Chairman, NHRC, for his enthusiastic annotations and useful guidelines as to the scope and focus of the present study.

It will be unjust if we do not acknowledge the support of Mr. Md. Asraful Islam, Academic Coordinator, Department of Law & Justice, Southeast University, Dhaka, Bangladesh.

## List of Acronyms

AMC	Apex Monitoring Committee
BGMEA	Bangladesh Garments Manufacturers and Exporters Association
BILS	Bangladesh Institute of Labor Studies
BKMEA	Bangladesh Knitwear Manufacturers and Exporter Association
BTMA	Bangladesh Textile Mills Association
EPZ	Export Processing Zone
FDI	Foreign Direct Investment
FPSP	Fundamental Principles of State Policy
GDP	Gross Domestic Product
ICCPR	International Covenant on Economic Social and Cultural Rights
LU	Labor Union
MFA	Multi- Fiber Arrangement
MoLE	Ministry of Labour and Employment
NBR	National Board of Revenue
OSH	Occupational Safety and Hazard
RMG	Readymade Garments
SMC	Special Monitoring Committee

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**STUDY REPORT ON**  
**SECURITY AND SAFETY NET OF GARMENTS WORKERS: NEED FOR**  
**AMENDMENT OF LABOUR LAW**

**Abstract**

Role of labour and industrial laws are of paramount importance. Total economy of a country greatly depends upon the industrial sector. Proper management of labour is an essential matter for growth of industrial sector. The object of Labour laws is no doubt to maintain industrial peace and to meet the surge of problems in employment and to protect the rights of workmen. But due to various defects and loopholes in the labour laws the workers in our country are indiscriminately victimised and are deprived of their legal rights. So it is a question whether the Bangladesh Labour Code, 2006 along with its amendments is a proper law in all aspects to meet the demands of the labour of Bangladesh. This study mainly aims at justifying the status of compliance regarding security and safety net of the garments workers in Bangladesh in line with national and international legal framework and standard practice coupled with the vow to investigate the main loopholes of the present labour law in the country. This study has employed both qualitative and empirical approach because of mixed nature of the problem with a view to achieving the best outcome of the research. After analyzing primary and secondary data this study came up with few recommendations important of which are the Labour Act should include appropriate penalty provisions for wage discrimination between male and female workers and for not arranging awareness training by owners. Effective application of the National Labour Policy 2012 is a must to ensure decent work, occupational safety and health within the general framework of rights of workers. Government may make 30 'Special Monitoring Cell (SMC)' and 5 'Apex Monitoring Cell (AMC)' that will monitor the security and safety net of workers. In terms of factory construction, factory owners must follow building code strictly. Those who will not follow it must be punished severely. As this labour intensive industry, there must be a 'Special Approval Authority (SAA)' for building of factory. All members of this team must be expert and factors like earthquake must be considered. Housing accommodation provided by employers will be make worker feel safe and work peacefully. Number of Inspectors should be increased and they must be biasfree while visiting garments factory and interviewing workers. Inspectors should use observation method to get information. Finally, it is essential to make

workers confident that they are working in a safe factory. That feeling will reduce the damages and life-loss when any accident occurs.

## **1. Introduction**

Labour laws were born to create equal opportunities for all workers and employers to secure decent safety and security and productive work in conditions of freedom, equity, security and human dignity. In theory, the labour laws envisage a set of rights but in practice they work as shield for workers. These laws are the reflections of fair sharing of rights, duties and obligations between employers and workers. These laws also focus on international labour standards ensuring decent work for all. The Bangladesh Labour Act (BLA), 2006 in the country seeks, *inter alia*, to protect and promote rights of the workers. Although legal provisions exist to uphold the fundamental principles and to protect rights at work, their implementation and enforcement remain a daunting challenge. This study explores whether and to what extent the security and safety net of workers are covered under the legal framework in Bangladesh specifically in the Bangladesh Labour Act, 2006 in conformity with international standard.<sup>1</sup> It will also drill out the discrepancies and pitfalls of the law reflecting the availability of acceptable standards including security and safety net, rather than engaging to find out the outcome of how the trade-off between the conflicting interests of workers and employers. This sector has a greater potential than that of any other sector in terms of employment and foreign exchange earnings to reduce poverty and make a contribution to the national economy. Even though, security and safety standards of workers in this sector are not up to the mark. However, in recommending amendments to the existing Labour Act this study will address the concerns of all the stakeholders.

## **2. Objectives of the Study**

This study mainly aims at justifying the status of compliance regarding security and safety net of the garments workers in Bangladesh in line with national and international legal framework and standard practice coupled with the vow to investigate the main loopholes of the present labour law in the country. In particular, the provisions concerning the security and safety of the

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<sup>1</sup> See generally Anonymous, 'Bangladesh: Amended Labour Law Falls Short: Some Improvements: But Workers Rights Still at Serious Risk', *Human Rights Watch* (July 15, 2013), available at <http://www.hrw.org/news/2013/07/15/bangladesh-amended-labor-law-falls-short>, last accessed June 3, 2014.

garments workers in Bangladesh will be examined in the light of the international legal framework, especially with the ILO Conventions dealing with the same agenda. The study strives to explore in a bid to prove that if the garments workers are assured required security and safety in his or her work, the productivity of the RMG sector as well as their personal wellbeing will be improved paving the way for sustainability for all stakeholders. Another radiant purpose of the study is to delve into the lacuna and dilemma of theoretical and practical part of the labour law in Bangladesh with a view to propose necessary amendments and recommendations to mitigate such problems in a congenial way.

### **3. Rationale of the Study**

As RMG sector is the nucleus of the country's economy, so carrying out study for further upliftment of the sector is the demand of time to bring meaningful change removing ongoing volatility in the industry. At present the garments sector of the country is arguably unstable pointing out the necessity of in-depth study and analysis to heel it. Majority of the garments workers are unhappy with their toilsome labour but the security and safety net in the working place. The recent Rana plaza catastrophe and Tazreen fire tragedy with horrendous casualties have added further justifiability to initiate and conduct research study centring this issue. In addition, there is a dearth of notable study on the security and safety net of the garments workers in the country. The current study is perceived to be a valuable addition in the existing literature relating to the security and safety grid of the garments workers from the legal, equitable and social aspect. Though the Government of Bangladesh has already amended its labour law in 2013 to make the law time-befitting, the question remains whether this amendment is enough in terms of security and safety net of garments workers. These amendments will hopefully be proved to be the first step towards fulfilling the Government's obligation to the fundamental rights to freedom of association and collective bargaining and to address the critical need to uphold occupational safety and health. An initial review suggests that the amendments did address some of the ILO's specific concerns, while falling short of several important steps called for by the ILO supervisory system to bring the law into conformity with ratified international labour standards. Several provisions to improve workplace safety have now been included in the law. The amendments were done aiming to protect the interests and rights of the workers and

ensuring their safety, incidentally in the wake of a strong plea from the western consumers of Bangladeshi products for such legal reforms. However, the ILO also observes that new labour laws as amended and enacted by the Bangladeshi Parliament fall far short of protecting workers' rights and meeting international standards.<sup>2</sup> The New York Times commented as “Half hearted Labour Reform in Bangladesh”<sup>3</sup>. The Brussels-based International Trade Union Confederation has criticised the amended Bangladesh Labour Act 2013 stating that it is 'falling well short of international labour standards'.<sup>4</sup> So it can be mentioned that the amendments are positive move, but long way to go. To make a proper amendment it is important to know how workers perceive about security and safety. Amendments must reflect their perception as to security and safety.

Furthermore, the study strongly recognises that this report will be highly beneficial to the garments workers if the recommendations are observed and materialised in due course.

#### **4. Contribution of the Study**

From a narrower viewpoint, this study will contribute to ensure some instant benefit of the garments workers, for example their job security, social security, living standard, and service benefits along with working safety will be augmented. Motivation of the workers will lead to better productivity of the industry expediting further change for the country to expand its position and global market with recognition and clean image. From a broader perspective, this study will contribute to the socio-economic development of the country. The demonstrations and movements of the garments workers to ensure their rights every now and then create a serious social and political instability. Hence, if the garments workers are guaranteed maximum security and safety in their workplace, there will be a social stability, harmony and tranquillity in lieu of the unwanted movements and demonstrations.

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<sup>2</sup> International Labour Organisation, ILO statement on reform of Bangladesh labour law '(ILO, 22 July 2013, Geneva), available at < <http://www.ilo.org/global/about-the-ilo/media-centre/statements-and-speeches/WCMS218067/lang--en/index.htm> >. ILO further argues that, —however the country [Bangladesh] is encouraged to ratify the key international labour standards on OSH policy, namely Promotional Framework for Occupational Safety and Health Convention, 2006 (no. 187) and Occupational Safety and Health Convention, 1981 (no.155)|.

<sup>3</sup> Editorial Board, The Opinion Page, *The New York Times*, July 17, 2013, available at <[http://www.nytimes.com/2013/07/18/opinion/halfhearted-labor-reform-in-bangladesh.html?\\_r=0](http://www.nytimes.com/2013/07/18/opinion/halfhearted-labor-reform-in-bangladesh.html?_r=0) >.

<sup>4</sup> FE Report, ‘ITUC finds amended labour law far short of intl standard: US, EU govts urged to put pressure on Bangladesh’, *Financial Express*, 22 July 2013, available at <http://www.thefinancialexpress-bd.com/old/index.php?ref=MjBfMDdfMjJfMTNfMV8xXzE3NzMxMw>>, last accessed 3 June 2014.

## **5. Methodology**

This study has employed both qualitative and empirical approach because of mixed nature of the problem with a view to achieving the best outcome of the research. The qualitative methodology of research has been applied for subjective assessment based on secondary sources to investigate the loopholes in the current legal framework on the safety and security net of the garments workers in Bangladesh. While doing this part of the research, the existing literature on the labour laws have been explored and examined thoroughly. Through application of this approach, findings have been reinvigorated and compiled suggesting better security and safety net along with propositions for necessary amendments of the current labour law.

For the empirical part of the study primary data have been collected through a structured questionnaire. This questionnaire includes 16 statements. One statement is related to workers' satisfaction as to feeling of safety. Fifteen statements are related to safety factors. Perceptions of workers have been measured by the response of interviewees to the respective statement at a 7 – Point Likert Scale. Point 7 indicates strong agreement; on the contrary point 1 indicates strong disagreement with the statement. Population of this study is about 4 million garments workers working in more than 6000 factories in Bangladesh. 213 samples (garments workers) have been investigated from 62 garments factories. Out of these 62 factories, 44 are situated outside the centre of Dhaka (Ashulia and Narayanganj) and remaining 18 have been selected from inside Dhaka (Mirpur, Tikatuli, Chairmanbari, Kachukhet, Mugda and Norda). Among them, good quality, average quality and below-average quality factories have been selected for this study to ensure proper representation.

Qualitative technique like Focus Group Discussion (FGD) was also used to collect primary data. FGD was conducted on one group of samples having eight members.

Secondary data have been used to get ideas on safety factors. Data have been analyzed with the help of SPSS (Version 17).

These questionnaires are designed in such manner so that the garments workers can express their opinions without any prejudice and bias finding the obstacles as to safety net in consonance with ILO Conventions and standards. The findings of the mixed approach will be categorised

systematically and the common findings will be offered as recommendation to amend the current labour law in the country.

## **6. Literature Review**

Many researchers have investigated the working conditions in the Bangladesh garments industry. In fact, working conditions in the RMG sector are below standard and do not meet the ILO standards. Labour standards and rights are commonly ignored in the RMG factories in Bangladesh.

Work areas are often over crowded with limited workspaces, causing occupational hazards such as musculoskeletal disorders and contagious diseases. Injuries, fatalities, disablement and death from fire and building collapses are frequent in the RMG sector. The absence of labour standards monitoring system and ineffective building codes, poor enforcement and outdated labour laws, and a lack of awareness of labour rights among workers are the major problems in this sector.

In his study in 2012, Md Nasir Uddin<sup>5</sup> has identified following factors which relate safety issue which are the important cause of the accident.

- Routes are blocked by storage materials
- Machine layout is often staggered
- Lack of signage for escape route
- No provision for emergency lighting
- Doors, opening along escape routes, are not fire resistant.
- Doors are not self-closing and often do not open along the direction of escape.
- Adequate doors as well as adequate staircases are not provided to aid quick exit
- Fire exit or emergency staircase lacks proper maintenance
- Lack of proper exit route to reach the place of safety Parked vehicles, goods and rubbish on the outside of the building obstruct exits to the open air
- Fire in a Bangladesh factory is likely to spread quickly because the principle of compartmentalization is practiced
- Lack of awareness among the workers and the owners

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<sup>5</sup> Uddin, M.N., A Study on the Work place Environment in Garment Industry: Challenges and opportunities, Institute of Social Welfare and Research, (2012), pp. 88-89, University of Dhaka.

Nasir studied 101 workers (samples) from 4 garments and found that 34.65% of the respondents feel their job place is unsafe and insecure for them. They have anxiety for electrical faults, fire accidents, building collapse, stampede, etc. On the other hand 65.35% respondents feel their job place safe and secure for them. So it is clear that garment workers received alarm for accident of Rana plaza tragedy and Tazrin garment accident in RMG sector in Bangladesh.

The of hazards in the garments industry of Bangladesh includes crowded conditions, exposed operating machines, electrical connections are crude and unsafe, a few or no fire extinguishers inaccessible or malfunctioning, no fire practice is ever performed, managers and workers are not trained to understand health and safety issues, stairs and floors used as storage; gates remain closed even in emergency; factory not designed as commercial facility, narrow aisles for fire fighters to enter and rescue.

This literature review indicates that most garments factories in Bangladesh pay little attention to labour standards and labour rights, disallow trade union activities, unsafe working environment, and ineffective laws and discard fair labour practices, and compliance enforcement is limited and limited role of stakeholders. The factors that affect the safety net of garments workers in Bangladesh have been identified after synthesis of various articles, expert opinions along with Accord<sup>6</sup> and Alliance<sup>7</sup> findings regarding safety issue of garments workers. These factors are:

- a) Condition of structure of factory building
- b) Adequacy of fire extinguishing appliances
- c) Fire fighting practice facility
- d) Adequate and wide fire doors
- e) Effective smoke detection system
- f) Wide aisles for fire fighters to entre and rescue

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<sup>6</sup>The Accord is a legally binding agreement. The Accord is an independent agreement designed to make all garment factories in Bangladesh safe workplaces. It includes independent safety inspections at factories and public reporting of the results of these inspections. It has been signed by over 150 apparel corporations from 20 countries in Europe, North America, Asia and Australia; two global trade unions, IndustriALL and UNI; and numerous Bangladeshi unions. Clean Clothes Campaign, Worker Rights Consortium, International Labor Rights Forum and Maquila Solidarity Network are NGO witnesses to the Accord. The International Labour Organisation (ILO) acts as the independent chair.

<sup>7</sup>The Alliance for Bangladesh Worker Safety is a body established to ensure on-the-ground presence to facilitate its effort to bring improved fire and structural safety to Bangladesh garment factories. The Alliance—an historic coalition of global apparel companies and their partners—will unify efforts to dramatically improve garment factory safety conditions in Bangladesh following a string of deadly factory fires and collapses.

- g) Openness of machineries
- h) Training as to use of machine safely
- i) Condition electric connections
- j) Sufficiently wide floors, stairs and pathways
- k) Floors, stairs and pathways free from blockade
- l) Effective lighting, ventilation and room-temperature control system
- m) Density of workers in workplace
- n) Wide connecting roads around the factory for easy and quick accessibility
- o) Awareness program

## **7. Historical Background of Labour Law**

The emergence of labour law in Bangladesh is as old as its origin in the Indian sub-continent dating back to the last half of the 19<sup>th</sup> century. The Factories Act, 1881 was the first legislation of its kind in the undivided India.<sup>8</sup> The legislation was enacted in the wake of pressure of the British merchants and mall-owners as well as on the basis of a report of Major Moore, Inspector in Chief of the Bombay Cotton Department in 1872-1873 in a bid to regulate the working conditions in factories. Subsequently, the British Government introduced several other laws relating to various labour issues such as working hours, wage, trade union activities, employment of children, maternity benefit etc.<sup>9</sup> Prior to the present version of the BLA 2006 there were as many as 50 scattered laws regulating employer and establishment with regard to the rights and interest of workers. Out of those 50 laws, 15 were enacted during the colonial British regime, 23 were passed during the Pakistan period and only 12 were made during Bangladesh period. Establishment of the International Labour Organization (ILO) in 1919 galvanized the legal framework as to labour rights.<sup>10</sup> After the separation of the India and Pakistan in 1947, almost all the laws during the pre partition period have been kept in force with some minor modifications and amendments. After the independence in 1971, the government of the People's Republic of

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<sup>8</sup> Hossain, J., Ahmed, M. and Akter, A., *Bangladesh Labour Law: Reform Directions*. Dhaka: Bangladesh Institute of Labour Studies (BILS), (2010), p. 5.

<sup>9</sup> Mishra, L. 2012, History of Labour Rights. *Social Change*, no. 42.vol.3, pp. 335–357.

<sup>10</sup> David A. Waugh, "The ILO and Human Rights," *Comparative Labor Law*, 5(2):186–196 (Spring 1982)

Bangladesh retained the previous laws and also enacted additional laws in response to the changing circumstances and needs of the working class and the employers. In many cases those existing laws were outdated, scattered, inconsistent and often overlapping each other. As a result, in 1992 a Labour Law Commission was formed by the Government which examined 44 labour laws and recommended to repeal 27 laws preparing a draft Labour Code in 1994.<sup>11</sup> This draft of Labour Code, 1994 underwent series of changes in its vetting stages and finally the Bangladesh Labour Act, 2006 was passed by the Parliament on October 11, 2006. This law is one of the very recent laws with major overhauling changes in the field of labour legislation.

## **8. Significance of RMG Industry in the Economy**

Undeniably the RMG sector from its inception has been contributing tremendously for the economic development of the country. The thriving RMG industry has grown from \$12,000 in exports in 1978 to \$21.5 billion in 2012-2013 and now in accounts for 80% of total exports.<sup>12</sup> Export Promotion Bureau data show that RMG sector's contribution to the country's exports was 3.9% in fiscal 1983-1984 and now it stands at nearly 80%. The country maintains 4.8% of the global RMG trade of \$412 billion and its export will reach \$36- 40 billion by 2020. This sector has been a backbone for the country's economy and it is the world's second largest garment exporter after China.<sup>13</sup> Rock-bottom wages and trade deals with Western countries have helped make Bangladesh the world's second-largest apparel exporter after China, with 60 percent of its clothes going to Europe and 23 percent to the United States.<sup>14</sup> It has been thriving since 1985 after getting quota free access known as Generalized System of Preferences (GSP). At present,

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<sup>11</sup> Siddiqi, H.G.A. 2004. "The Readymade Garments Industry of Bangladesh", The University Press Limited, First Edition, pp. 192-121, Dhaka, Bangladesh.

<sup>12</sup> BEGMA, 'RMG: The Mainstay of Bangladesh Economy' Bangladesh Garment Manufacturers and Exporters Association, available at <<http://www.bgmea.com.bd/home/pages/Strengths#.Uoz348ReZLA>>, last accessed May 19, 2014.

<sup>13</sup> Imam, Mahmuda, Safety and Security of Garment Workers, The Daily Star, February 27, 2014, see link <<http://archive.thedailystar.net/newDesign/news-details.php?nid=270581>> accessed on May 22, 2014.

<sup>14</sup> Ruma, Paul, Bangladesh Factories Agree to Pay Rise But Protests Go On, November 14, 2013, see link <http://www.reuters.com/article/2013/11/14/us-bangladesh-garments-idUSBRE9AD0BL20131114> accessed on June 3, 2014.

the sector with near about 5,000 garments employs above 4 million workers and of whom 80% are women, mostly from poor rural households.<sup>15</sup> The sector is estimated to support an additional 8 million tertiary jobs. In case of national politics, out of 300 members in the Parliament, an estimated 60 percent are directly or indirectly involved in the RMG industry or related business. Analysts say 31 members of the Parliament amounting to more than 10 percent of the country's national legislators, directly own garment factories, while others have indirect financial interests in the industry.<sup>16</sup> There are about three thousand owners of five thousand garment industrial units in the country. This has been turned into a boon for the country and has a greater potential than any other sector in terms of employment and foreign exchange earnings to reduce poverty and make a contribution to the national economy.

## **9. Constitutional Framework of Labour Rights**

Like other countries the Constitution of the People's Republic of Bangladesh of 1972 (Bangladesh Constitution) possesses several rudimentary rights for the working masses and labourers. Part two of the Constitution titled as Fundamental Principles of the State Policy (FPSP), and more specifically article 14 has articulated the provision of emancipation of peasants and workers entailing the responsibility of the state for the personal, economic, social emancipation of toiling masses including peasants and workers as well as backward sections of the people from all forms of exploitation. Article 20 mentions that work is a right of every citizen capable of working and he or she shall be paid for considering his or her abilities to increase creative endeavour and human personality. It has also imposed responsibility to the state for adopting steps and standards recognising all forms of human labours ranging from intellectual to physical one.<sup>17</sup> It is notable that every citizen of Bangladesh has the right to choose his or her

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<sup>15</sup> Committee on Foreign Relations, US Senate \_Workers Safety and Labour Rights in Bangladesh's Garment Sector, 113th Congress, 1st Session, November 22, 2013: 5.

<sup>16</sup> Yardley, Jim, Garment Trade Wields Power in Bangladesh, The New York Times, July 24, 2013 <[http://www.nytimes.com/2013/07/25/world/asia/garment-trade-wields-power-in-bangladesh.html?\\_r=0](http://www.nytimes.com/2013/07/25/world/asia/garment-trade-wields-power-in-bangladesh.html?_r=0)> accessed on May 28, 2014.

<sup>17</sup> Article 20(1) of the Constitution of the People's Republic of Bangladesh (Constitution of Bangladesh).

profession,<sup>18</sup> and the profession of garments workers plays a very important role in socio-economic and political areas with Constitutional support.

The workers of the country have been given several fundamental rights in terms of freedom, equality and justice under the Constitution. Article 34 of the Bangladesh Constitution prohibited of forced labour.<sup>19</sup> Labour rights are associated with freedom of movements, freedom of assembly and freedom of association which are accordingly encompassed by arts 36, 37 and 38 of the Constitution. These articles demonstrate the power of “we” i.e. the recognition of Trade Union (TU) to realise rights of the workers through standing in a common platform. Before the Labour Act, 2006 the practice of TU was noteworthy engaging collective bargaining but the 2006 Act imposed de facto restrictions with tougher conditions for such TUs. The Amendment in 2013 in the Bangladesh Labour Act, 2006 has eased the complexity of formation and running TUs but the past wounds will take time for recovery. All labours of Bangladesh have been given the right to movement and assemble for participating in public meetings or processions in a peaceful manner subject to the legal restrictions, public interest and public health.<sup>20</sup>

Labours of Bangladesh have the right to form trade union for claiming and bargaining and their rights to the employers. Article 38 of the Bangladesh Constitution has given the right to form trade union. This Article articulates:

Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order: Provided that no person shall have the right to form, or be a member of the said association or union, if- (a) it is formed for the purposes of destroying the religious, social and communal harmony among the citizens; (b) it is formed for the purposes of creating discrimination among the citizens, on the ground of religion, race, caste, sex, place of birth or language; (c) it is formed for the purposes of organizing terrorist acts or militant activities against the State or the citizens or any other country; (d) its formation and objects are inconsistent with the Constitution.

The Commitment of Bangladesh for promoting garments workers' rights also devolves from both national legislations and its ratification of several international treaties basically of ILO Conventions. Bangladesh ratified the International Covenant on Social, Economic and Cultural

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<sup>18</sup>See art 40 of the Constitution of Bangladesh.

<sup>19</sup> Note: Section 374 of the Penal Code, 1860 has provision for punishment of the employers in case of forced labour but the penalty is negligible.

<sup>20</sup> See generally arts 35, 36 Constitution of Bangladesh.

Rights in 1998, with reservations placed on arts 1, 2, 3, 7 and 8.<sup>21</sup> Till now Bangladesh also ratified 33 ILO Conventions including 7 out of 8 core ones out of the total 190 ILO Conventions after its membership into the ILO in 1972. It can be argued that the Constitution has given several rights to the labours in the light of the international legal documents and in the wake of indomitable pressure of labourers.

## **10. Security and Safety Net under the Labour Law**

### **10.1. Security**

The word security is not separately defined in the Bangladesh Labour Act, 2006. However, the security of the workers has been discussed in the Act very extensively which includes conditions of service ranging from the stage of appointment to the stage of termination of service and even beyond and relates to matters pertaining to disciplinary action. Truly, the insecurity of female workers is comparatively higher than male workers.<sup>22</sup> However, there are a good number of provisions under some chapters collectively dealing with the purposes of security of workers discussed here.

So far the employment standard is concerned, the Act sets a very sound standard rules that an employment contract between the employers and the workers in an industrial and commercial establishment must be in writing. Every employer is required to issue a formal appointment letter and an identity card with photograph at the time of employment of each worker.<sup>23</sup> The appointment letter shall contain the main terms and conditions of employment, i.e. nature and tenure of appointment, pay allowances and other benefits and terms and conditions of appointment. In addition to this, section 6 of the Act provides for maintenance of a service book for workers (excluding apprentice, *badli* or casual worker) which will include worker's name and parents' names, date of birth, description of any distinguishing marks, name and address of previous employer, if any, tenure of employment, profession or title, wages and allowances, behaviour of the worker. Besides, section 9 of the Act requires the employers to maintain a

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<sup>21</sup> In this regard, the ILO Declaration on Fundamental Principles and Rights at Work, 1998 (86<sup>th</sup> session) is also relevant.

<sup>22</sup> M.J Alam Mamun, M. Z. and N Islam, (2004), Workplace Security of Female Garments Workers in Bangladesh, *Social Science Review* 21(2): 191-200.

<sup>23</sup> Section 5 of the Bangladesh Labour Act, 2006.

register for all his workers that shall be kept ready during working hours for inspection by the inspector. The worker register shall contain, *inter alia*, (i) the name and date of birth of each worker in the establishment; (ii) date of appointment; (iii) the nature of his work; (iv) the periods of work fixed for him; (v) the intervals for rest and meals to which he is entitled; (vi) the days of rest to which he is entitled; (vii) the group, if any, in which he is included. For identification during work, every worker will be provided with a ticket or card.

In the event of stoppage of work on account of fire, catastrophe, breakdown of machinery, or stoppage of power supply, epidemics, civil commotion or any other cause beyond his control, section 12 provides for the provisions proper notice to the workers and payment of wages in case the same continues for more than one but not more than three days. In case of lay-off, the employer shall maintain a muster-roll as per the requirement of section 17 of the Act to provide the laid-off workers with an opportunity of being appointed during normal working hours. A worker laid-off would be entitled to preference when the working of the factory is resumed.<sup>24</sup>

So far the job termination of workers is concerned, the employer is required, in the case of retrenchment, to give one month's notice and the equivalent 30-day wages or gratuity for every year of service if the worker is employed on continuous service for not less than one year; and in the event of discharge, to give financial benefit equivalent to 30-day wages for every completed year of service by an employee found to have physical or mental incapacity.<sup>25</sup> As per section 21 of the Act, when the employer proposes to take any worker within a period of one year from the date of such retrenchment, he shall send a notice to retrenched worker to their last known addresses to offer themselves for employment, and the retrenched workers who so offer themselves for re-employment shall have preference over other retrenched workers, each having priority according to the length of his service under the employer. Moreover, service of a worker may be terminated either by the employer or by the worker himself in accordance with law<sup>26</sup> with a written notice of one hundred and twenty days or payment of wages for the same in case of monthly rated workers; and in case of other workers, with a written notice of sixty days or payment of wages for the same, if the termination is from the employer's side. The employer,

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<sup>24</sup> SK Hosiery Factory Case (1995) 45 DLR 233.

<sup>25</sup> See, section 20(2) of the Bangladesh Labour Act, 2006.

<sup>26</sup> See, sections 26 & 27, *ibid*.

however, cannot exercise such power arbitrarily rather he is required to pay pecuniary benefits to the person sought to be terminated.<sup>27</sup>

According to section 23, a worker may be dismissed from service without prior notice or pay if he is convicted for an offence or is found guilty of misconduct. However, section 24 provides for a sound procedure to be followed to prove the misconduct and offence i.e. he must be found guilty after inquiry by an inquiry committee comprised of the equal number of representatives from the owner and workers' sides.

In the case of death of the workers, or injury as well as cessation of the production due to natural disasters, provisions have been made compensation. As per section 19 of the Act, the worker shall be paid a by the employer a compensation at the rate of thirty days' wages for a normal death and of forty five days for an accidental death while working in the establishment which will be in addition to any other benefit to which the deceased worker would have been entitled to had he retired from the service. The High Court issued a Rule *Nisi* calling upon the respondents to show cause as to why they should not be directed to take necessary actions as required by the law and the Constitution, to effectively investigate, prosecute and punish those responsible for the deaths and injuries of the victims of KTS fire<sup>28</sup>. Section 99 requires the Employer to introduce group insurance in under the existing Insurance Act, in the establishments wherein 100 permanent workers are employed.

The Labour Act prohibits children under the age of 14 from work although children between the ages of 12 and 14 can be authorized to work on an exceptional basis. According to section 34(1) of the Act, no child shall be required or allowed to work in profession or establishment. Even no parents or guardian of a child can make contract of employment of a child giving permission to work with anyone. Again section 44 of the Act allows for employment of children in the light work which is not dangerous to his health and development or which will not prevent him from his education. As per section 39 as amended in 2013, the government, from time to time, will declare in gazette notification the list of the dangerous works. As per section 34(2) read with section 2(8), the young persons between the ages of 14 and 18 can be appointed to work in any

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<sup>27</sup> Adomjee Jute Mills Ltd. vs. Chairman, Labour Court, 9 MLR (2004) AD 77; S.H Kuddus vs. Labour Court, Chittagong, (1981)

<sup>28</sup> On 23 February 2006, a deadly fire broke out in KTS Textile and Garments Ltd. in the BSCIC Industrial Estate in Chittagong, in which 65 workers died and over 150 were injured. Within a month, fires broke out in eight more garment factories in Chittagong.

factory unless a certificate of fitness from registered surgeon granted to him is in the custody of the employer and such young person carries while he is at work a token giving a reference to such certificate. Section 42 prohibits the employment of young persons in underground or under water. Section 41 provides that no young person may be allowed to work in any factory for more than five hours in a day and 30 hours in a week.

Section 46 of the Act state that every woman employed in any establishment shall be entitled to the payment of maternity benefit in respect of the period of eight weeks preceding the tentative date of her delivery and eight weeks of following the date of her delivery. The maternity benefit consists of a payment depending on current wages for eight weeks before and eight weeks after the birth of child. A safeguard has been provided in section 50 so far the maternity benefit is concerned. If the employer gives notice or order of dismissal, discharge or removal to a woman without sufficient cause within a period of six months before her delivery and eight weeks after delivery, she will but be deprived of the maternity benefit to which but for such notice she may have become entitled under this Act.

But the reality is that most women become surprised when they were told that they were entitled to maternity leave under Bangladesh labour laws<sup>29</sup>. Kormojibi Nari conducted a survey in August 2006<sup>30</sup> in 100 garment factories in Dhaka city. According to the survey Sixty three per cent of the RMG factories did not grant maternity leave to women workers who were therefore compelled to leave their jobs before child birth and join afresh thereafter.

An estimated two million workers, of whom 80 per cent are women<sup>31</sup>, are reported to be employed in 4,250 RMG factories<sup>32</sup> across the country. In addition, another million are engaged in textiles and accessories industries (yarn, button, carton, etc.<sup>33</sup>). Sexual harassment and discrimination is widespread and common phenomena in garment factories and women are threatened with dismissal if they speak out. The study conducted by Action Aid Bangladesh, a British NGO, estimates at least 20 percent of women workers were engaging in sex at the workplace. Exploited at work, and living in wretched poverty, many women workers have

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<sup>29</sup> ibid

<sup>30</sup>KarmojibiNari, *Untold*, Vol.13, January - March 2007, p 32.

<sup>31</sup>KabirUddin Ahmed, former President of BGMEA, in an interview with *Prothom Alo*, 24 May, 2006.

<sup>32</sup>Listed with the BGMEA.

<sup>33</sup>Kabir Uddin Ahmed, *op. cit.*

succumbed to prostitution to make some extra money<sup>34</sup>. Sexual harassment is Even the journey to and from the workplace is fraught with danger. Women workers run the risk of rape and harassment. An alarming lack of awareness of safe sex practices is likely to spread of the HIV/AIDS disease. Sexually transmitted diseases (STD) are widespread as well<sup>35</sup>.

In the RMG sector, workers do not enjoy rest, leisure or recreation as guaranteed under Article 15(c) of the Constitution. It has been found that about 93 per cent factories, workers were allowed one hour for lunch break. As 42 per cent of factories provided no dining space, the workers had to eat their lunch on the roof or on the stair well. Pure drinking water was not available in 68 per cent of the factories.<sup>36</sup>

Chapter VIII of the Act, envisages the security of disable workers as to housing under section 94A but most importantly the newly revised provision of compulsory group insurance for all workers has given a laudable parlance of family as well as social security. However, in availing group insurance the number of workers in a factory must be at least 100, though previously it was 200.

There are black and white procedures in Chapter IX regarding working hours coupled with leave related issues. Under section 100 and 102 the daily and weekly working hours are ensured. Night shift for female workers without their consent is prohibited as per section 106. Extra allowance for overtime (OT) is guaranteed according to section 108 with imposition of limitation for hours of works for women in consonance with section 109. In theory the terms of casual leave under section 115, sick leave in line with section 116, annual leave with wages in compatibility of section 117 along with festival holidays relating to section 118.

As usually in Chapter X the responsibility for payment of wages under section 121 and stipulation of time for payment of wages along with the deduction procedure for absence of duty in section 126 are mentioned. But according to Bangladesh Garments Manufacturers' Association (BGMEA), 38 per cent of factories in Dhaka district and some 60 per cent of factories in Chittagong have not implemented the new minimum wage. The bad news does not end there. According to unions, some 5,000 workers have lost their jobs due to agitation and

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<sup>34</sup> <http://www.waronwant.org/overseas-work/sweatshops-and-plantations/sweatshops-in-bangladesh>

<sup>35</sup> Women Suffer Most in Garment Sweatshops in Bangladesh By Tabibul Islam  
<http://cawhk.tripod.com/9904/9904art05.htm>

<sup>36</sup> Ibid

factory owners have been pressing the existing labour force to accept old wages.<sup>37</sup> Again the liability for compensation in respect of death and fatal accidents goes to employers in accordance with section 150 and the fixed amount of compensation to be paid by the employer under section 151. Workplace death to the dependents of a deceased worker is BDT 1, 00,000 and in case of permanent disablement due to workplace injury the amount of compensation provided will be BDT 1, 25,000. On the other hand, in case of suffering of temporary disablement up to one year or less the amount of compensation payable will be full salary for the first two months, two third salaries for the next two months and for the remaining months it will be half monthly salary. Even in case of notice of an accident by a worker it is the duty of the employer to examine the worker as the cost of owner within three days as per section 160 but this is rhetoric.

In case of workplace accidents that result in deaths of workers and permanent disability, these issues may be taken into account in computing the amount of compensation such as insurance claim, retirement benefits, gratuity, cost of living for his/her dependent/s, arranging for employment of one of the dependents of the deceased at an establishment suitable to his/her qualifications and medical costs. The criteria enumerated above are based on the judgment of the Hon'ble High Court Division, Supreme Court of Bangladesh in *Bangladesh Beverage Industries Ltd v. Rowshon Akhter*<sup>38</sup> in which the Court awarded Taka two crores as compensation to the dependents of a journalist killed in a road traffic accident in 1989.

Chapter 12 of the BLA 2006 sets out that an 'employer' is liable to pay compensation to an injured worker or, following a death, to the dependents. Here the duty to pay compensation should be placed on 'occupier' instead of 'employer'. The BLA also sets out that the employer must deposit Tk 1 lakh to the labour court for a deceased worker as compensation while Tk 1.25 lakh for 'permanent total disability' of a worker. The Tk 1 lakh is too small for the dependent family. So, it should be Tk 2.5 lakh. In relation to the serious permanent injury the sum should be Tk 3 lakh. It is true that the law had introduced some significant aspects like retirement benefit, death benefit, appointment letter, enhancement of compensation amounts both for death and permanent disability, introduction of provident fund for workers, punishment for sexual

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<sup>37</sup> New Wage for Garment Workers Lack of Implementation Inexcusable, The Daily Star, February 5, 2014, see link <http://www.thedailystar.net/new-wage-for-garment-workers-9947>, accessed on May 28, 2014.

<sup>38</sup> 62 DLR (2010) 483

harassment at workplace etc. But due to lack of enforcement and other shortcomings, as mentioned above, the law loses its efficacy. Hence revitalization of the labour law is necessary<sup>39</sup>

Currently in one of the public interest litigations relating to the Rana Plaza disaster, the High Court Division (HCD) of the Supreme Court has directed the setting up of an expert committee, under the General Officer Commanding of the 9th Division of the Bangladesh Army, and comprising economists, social scientists, healthcare experts and others, to propose a set of criteria for assessing the rates of compensation due to Rana Plaza victims. Their proposals have been submitted and are pending consideration by the Court.

In Chapter XIII the scope for trade union for workers and employers and maintenance of industrial relations is not beyond question as it lacks ILO standard. Although section 176 to 190 deals with the conditions of trade unions and its functional procedures, it is facing difficulties to form and make the trade unions functional by the workers representatives. From employers' side the right to trade union is stronger than that of workers. In fact, everyone has the right to form and join trade union to protect his interests. Trade union right is the key to workers all human rights but in the Labour Act, 2006 the tougher provisions for trade union is a cause of concern for realizing the rights of workers under an organized platform. Unfortunately, garment workers are being dismissed from their jobs because of their efforts to form trade unions.<sup>40</sup> Moreover, 30% workers' representation is required to form trade unions and as a result only 3.88% workers are under the umbrella of trade unions. Each and every government tried to weaken trade unions and imposed restrictions to organise unions. As a result, we find gradual decrease of Trade Union membership which led to weak bargaining power of the workers. Employers become powerful to dictate terms and conditions unilaterally. The Bangladesh Labour Act 2006 also curtails the rights of workers. The tussle between government and workers' rights entities is inevitable. The argument from the government's side in respect of 30% representation is to ensure discipline in the industries whereas to the workers' rights entities it is a restriction and violation of the ILO Convention of 87 (Freedom of Association) and Convention 98 (Right to

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<sup>39</sup>Revisiting Labour Act 2006 by Md. Sekender Ali Mina , The Daily Star, Published on May 28, 2010; See original <http://www.thedailystar.net/law/2010/05/05/alter.htm>

<sup>40</sup> Shohel, Kayes. The Right to Form Trade Union? Not in RMG, The Dhaka Tribune, August 28, 2013 see link <http://www.dhakatribune.com/business/2013/aug/28/right-form-trade-union-not-rmg>, accessed on May 21, 2014.

Organize and Collective Bargaining).<sup>41</sup>The trade union movement did not accept the Act and suggested amendments to the government. The ILO Committee of Experts on the Application of Convention and Recommendation (CEACR) has noted with deep regret that the Labour Act did not contain any improvements in relation to the previous legislation and contained even further restrictions which were contrary to the provisions of ILO conventions. Out of the 7000 garment factories there are 139 unions. And out of 139, only 20-25 are active and there are only 5 collective bargaining agreements. In the whole RMG sector only two unions have been registered in 2008, none in 2009 or 2010 and just one in 2011 whose activities were stayed by the court when employers went to the court.<sup>42</sup>

The collective bargaining agent shall be entitled to undertake bargaining for materializing the interests of workers. Collective bargaining is limited as there is no legal provision for collective bargaining on a sectoral and national level. In fact, collective bargaining in private enterprise virtually does not exist. The overall coverage of collective agreement is negligible.

Chapter XIV deals of settlement of labour disputes. Dispute in any industry is inevitable because of human nature as well as conflict of interest between the employers and the workers. Owing to the nature of poverty stricken, the settlement of dispute between workers and employers either by alternative way or by judicial setups favours the employers undeniably. Moreover, the lack of skilled mediators, conciliators and arbitrators is an impediment towards peaceful settlement of labour disputes. Simultaneously, lawyers in the labour courts are dead against the alternative dispute resolution mechanism as they fear monetary loss. Furthermore, there are seven Labour Courts and one Labour Appellate Tribunal which are insufficient to settle more than 12000 pending labour disputes.<sup>43</sup>

Section 264 under Chapter XVII has a provision for provident funds for workers in private sector establishments. Every permanent worker after completion of one year of service is entitled to provident funds not less than 7% but not above 8% percent unless otherwise mutually agreed. Significant to note that as per section 270 provident fund is not liable to attachment.

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<sup>41</sup> Khan, Touhid Hossain, Accumulation and Alienation: State of Labour in Bangladesh, Rashed Al Mahmud Titutmir (Edited), Shaban Prokashani, Dhaka 2013.

<sup>42</sup> Bhuiyan, Md. Mofijur Rahman, The State of Decent Work in Bangladesh, The New Age, October 8, 2012 see link < <http://www.newagebd.com/detail.php?date=2012-10-08&nid=26252>>, accessed on May 23, 2014.

<sup>43</sup> Mohiuddin, Alamgir, About 12,000 Pending in the Labour Courts, The New Age, May 1, 2012, see link < <http://www.newagebd.com/detail.php?date=2012-05-01&nid=8929#.U4V8gnaNJ5k>> accessed on May 20, 2014.

## 10.2. Safety Net

According to the BLA, 2006 the employers are required to provide basic safety measures<sup>44</sup> which include, *inter alia*, safety of buildings, securely guarding all parts of dangerous machinery, precautions for working on machinery, emergency devices for cutting off power, provide protective equipment, measures to prevent fire and so forth. Besides, the existing law has also dealt with the occupational safety and health issues of the labours<sup>45</sup>. Safety of buildings, machinery and plants is to be ensured to the satisfaction of the inspectors.<sup>46</sup> The inspector of labour has been given huge power in this regard. If it appear to the inspector that any building or part it or any machinery or plant in an establishment is in such a condition that it is dangerous to human life or safety, he may serve to the employer and order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out within a specified time. In case a building or machinery involves imminent danger to human life or safety, the inspector may order in writing prohibiting its use until it has been properly repaired or altered.

Regarding the precaution against fire, section 62 of the Act provides that every establishment shall have an alternative stair connected to every floor as a means of escape in case of fire and be equipped with fire extinguisher with adequate warning systems. In practice the scenario is totally different as the workers face unsafe, cramped and hazardous conditions which often lead to work injuries and factory fires. Since 1990, more than 400 workers have died and several thousand more have been wounded in 50 major factory fires. We can give the examples of Tazreen Fashions and Rana Plaza incidents in this matter.<sup>47</sup>

In the case of working at the machinery, every plant or machinery shall be of good construction, sound material, and adequate strength and free from any patent defect, properly maintained in a safe condition, fitted with a suitable safety valve or other effective device. Section 63 provides

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<sup>44</sup>Sections 61 – 78 of the Bangladesh Labor Act, 2006

<sup>45</sup> Sections 79 – 88, *ibid*

<sup>46</sup> Chapter 20, *ibid*

<sup>47</sup> Ghosh, Palash, Bangladesh Building Collapse: Grinding Poverty Drives Workers into Dangerous Sweatshops For Western Corporations, April 29, 2013, see link <http://www.ibtimes.com/bangladesh-building-collapse-grinding-poverty-drives-workers-dangerous-sweatshops-western-1222795>, accessed on June 3, 2014.

that every moving part of a prime mover and every fly wheel connected to a prime mover, the head-race and tail-race of every water wheel and water turbine, any part of a stock-bar which projects beyond the head stock of lathe, every part of an electric generator, motor or rotary converter, every part of transmission machinery and every dangerous part of any machinery shall be properly fenced. Section 68 of the Act provides that every part of lifting machinery including working gear, ropes and chains and anchoring and fixing appliances shall be of good construction, sound material and adequate strength; properly maintained; thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination. As per section 78A, an employer shall not engage any workers in work without providing and ensuring use of personal safety equipment, and in doing so, a record book shall be maintained as designated by the owner and each of workers shall have to be aware on the risk of the work through trainings. If those are not used by workers concerned, they are to be held liable thereof.

Regarding safety of floors and stairs, section 72 of the Act provides that in every establishment, all floors, stairs, passages and gangways shall be of sound construction and properly maintained and where it is necessary to ensure safety steps, stair, passages and gangways shall be provided with substantial handrails and there shall be provided and maintained safe means of access to every place at which any person is required to work and all floors, stairs and gangways shall be wide ad obstacle free. For overall safety of workers employed, gangways, stairs, gate, go-down and common utility areas shall be under closed circuit cameras.<sup>48</sup>

According to section 74 of the Act, no person shall be employed in any establishment to lift, carry or move any load so heavy as to be likely to cause him injury. To protect the workers from dust and fumes, they would be provided with the effective screens of suitable goggles as well as suitable breathing apparatus, reviving apparatus and belts and ropes shall be kept ready for instant use beside any such confined space.

Though the Labour Act provides very compressive provisions for the safety of the workers at the working place, but these are hardly practised. The High Court Division of the Supreme Course of Bangladesh issued directives to (a) establish a national committee to monitor compliance of garment factories with applicable laws on fire safety, and make recommendations accordingly;

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<sup>48</sup> Section 72(d), *ibid*

(b) secure payment of adequate compensation to the workers injured in the KTS fire and to the dependents of the deceased; (c) inspect all garment factories in Dhaka, Chittagong and Narayanganj to ensure compliance with fire safety measures; and (d) ensure appropriate protective measures in all garment factories. The Court directed the respondents to submit their reports within three weeks and present accounts of the compensation amount paid to the victims or their dependents<sup>49</sup>.

In addition to, chapter VII of the Act laid down provisions regarding the health as well as safety for the employees in the commercial and industrial establishments. The Act sets some occupational health and safety standards for the workers which includes, *inter alia*, notification to the workers of the hazardous and harmful operations, of certain accidents and dangerous occurrences happened to their workplaces; prohibition of women workers from working in motion of any part of the machinery, or at dangerous machine and underground and under water. To this end, the Act authorizes the government to declare any operation that exposes workers to a serious risk of bodily injury, poisoning or disease to be hazardous and to make rules for securing the safety of the workers employed on factory or industrial establishments.

In case of any accident, any explosion, fire, forceful entrance of water or fumes as a result of accident occurring in an establishment or where any disease mentioned in second schedule of the BLA, 2006 is visible, then the government may appoint a competent person to enquire into the causes thereof. The person so appointed to hold an enquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of the witnesses and compelling the production of documents and material objects.

In the case of employment of adolescent and women in certain work, the Act imposes some restrictions. As per section 39, 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. An adolescent shall not be allowed to work at any machine unless (i) he has been fully instructed as to the dangers arising in connection with the machine and (ii) has received sufficient training in work at such machine.

To ensure the safety in general and occupational health safety in particular, the Act requires employers of the establishments where 5,000 or more workers are employed, to arrange a Health

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<sup>49</sup>Writ Petition No. 6070 of 1997.

Centre. Where in any factory, 50 or more workers are employed, there shall be a Safety Committee formed and functioned in the manner prescribed by the Rule.<sup>50</sup> However, the role of this committee is not clearly defined.<sup>51</sup> In fact, such committee made up of management and some workers chosen by the employer has become a powerless body.

## **11. International Legal Framework and Standard**

This part of the study encompasses the United Nations (UN) Conventions and the UN specialized agency International Labour Organization (ILO) Conventions.

### **11.1. UN Documents**

Article 3 of the Universal Declaration of Human Rights (UDHR) declares the right to life, liberty and security of every person which signifies the safety and security net of the garments workers for the purpose of this study. Article 22 of the UDHR includes everyone as ‘a member of the society’ which denotes that every garments worker has the right of social security.<sup>52</sup> Directly admitting the social security of the worker, art 25(1) of the UDHR declares the right to a standard of living and well-being for everyone and mentions that all people have the right to have adequate food, clothing, housing and medical care and necessary social services. The article also mentions that everyone should have the right to ‘security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control’. The declarations of the UDHR have been demonstrated in the conventions of the United Nations. **Article 9 of the International Convention on Economic, Social and Cultural Rights (ICESCR) provides that** the States Parties to the present Covenant recognize the right of everyone to social security, including social insurance. Article 10 (2) of the ICESCR mentions that special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with

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<sup>50</sup> Section 90A of the BLA, 2006 as amended in 2013

<sup>51</sup> See Bangladesh workers’ rights still at risk: Human Rights Watch, July 16, 2013; Jason Motlagh, A Year After Rana Plaza: What Hasn’t Changed Since the Bangladesh Factory Collapse, *Pulitzer Centre*, April 18, 2014, available at <<http://pulitzercenter.org/reporting/asia-bangladesh-rana-plaza-factory-workers-labor-rights-fast-fashion>>.

<sup>52</sup> Universal Declaration of Human Rights, art 22.

adequate social security benefits. **Article 11** of the ICESCR articulates that the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. It is noteworthy that Bangladesh has ratified ICESCR in 1998.

### **11.2. ILO Conventions**

There are 190 Conventions of ILO to date. Among them 8 Conventions are considered as the fundamental Conventions. These Conventions are considered as fundamental because they are binding upon the every Member State of ILO irrespective of the ratification.

The 8 fundamental conventions are as follows:

- i. *Forced Labour Convention, 1930*: It deals with the obligation of Member State to entirely eliminate the forced labour. However, military, civil service, court orders for emergencies and minor communal orders are excluded from this Convention.
- ii. *Freedom of Association and Protection of the Right to Organise Convention, 1948*: This Convention prescribes that there will have no discrimination if a worker wants to join a trade union and to take collective action.
- iii. *Right to Organise and Collective Bargaining Convention, 1949*: It provides the right of workers for collective bargaining with an owner through a trade union.
- iv. *Equal Remuneration Convention, 1951*: This Convention includes that every worker will be paid equally and there should have no discrimination on grounds of gender.
- v. *Abolition of Forced Labour Convention, 1957*: This Convention deals with the 'positive obligation on member states to ensure that all forced labour is abolished'.
- vi. *Discrimination (Employment and Occupation) Convention, 1958*: It ensures that a worker must not be discriminated for his or her 'race, colour, sex, religion, political opinion, national extraction or social origin' and so forth.
- vii. *Worst Forms of Child Labour Convention, 1999*: This Convention articulates several duties upon the Member States including the duty to identify and take steps for prohibiting the worst forms of child labour.

Bangladesh has ratified all of the above 7 conventions.

- viii. *Minimum Age Convention 19873*: This Convention has required the minimum age of the workers. A worker must be at least 15, or a higher age determined by Member States or 14 for Member States whose education systems are developing, before working, and 18 years old before dangerous work. Bangladesh has not ratified this convention.

### 11.3. ILO Conventions relating to Safety:

Name of the ILO Convention	The Convention deals with (main objectives) the ...	Bangladesh has ratified Yes/ No
Medical Examination of Young Persons (Industry) Convention, 1946	medical examination for fitness for employment in industry of children and young persons.	No
Radiation Protection Convention, 1960	protection of workers against ionising radiations.	No
Hygiene (Commerce and Offices) Convention, 1964	hygiene of the workers working in the trading establishments, or in establishments, institutions and administrative services in which the workers are mainly engaged in office work.	No
Medical Examination of Young Persons (Underground Work) Convention, 1965	medical examination of young persons in order to ensure their fitness for employment in underground places.	No
Medical Care and Sickness Benefits Convention, 1969.	medical care and sickness benefits of the workers.	No

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977	working environment of the workers, such as atmospheric pollution, noise and vibration and so forth.	No
Occupational Safety and Health Convention, 1981 <sup>53</sup>	safety and health and the working environment.	No
Occupational Health Services Convention, 1985	establishing and maintaining a safe and healthy working environment.	No
Asbestos Convention, 1986	safety in the use of asbestos	No
Chemicals Convention, 1990	safety in the use of chemicals at work	No
Night Work Convention, 1990	protect the health of the night workers and to assist them to meet their family and social responsibilities and so forth.	No
Prevention of Major Industrial Accidents Convention, 1993	prevention of major accidents involving hazardous substances and the limitation of the consequences of such accidents.	No
Promotional Framework for Occupational Safety and Health Convention, 2006	promote continuous improvement of occupational safety and health with a view to prevent occupational injuries, diseases and deaths of the workers.	No

#### 11.4. ILO Conventions relating to Security:

Name of the ILO Convention	The Convention deals with (main objectives) the ...	Bangladesh has ratified Yes/ No
Protection of Wages Convention, 1949	protection of wages.	No
Social Security (Minimum	minimum standards of social security	No

<sup>53</sup>This conventions followed by the Protocol of 2002 to the Occupational Safety and Health Convention, 1981.

Standards) Convention, 1952		
Employment Injury Benefits Convention, 1964	benefits of the workers in the case of employment Injury	No
Invalidity, Old-Age and Survivors' Benefits Convention, 1967	benefits given by insurance especially for the old-age workers and survivors.	No
Minimum Wage Fixing Convention, 1970	minimum wage fixing, with special reference to developing countries (i.e., Bangladesh)	No
Maintenance of Social Security Rights Convention, 1982	establishment of an international system for the maintenance of rights in social security	No
Termination of Employment Convention, 1982	termination of employment at the initiative of the employer	No

## 12. Empirical Study on Garments Workers' Perception as to Safety

The objective of this empirical study is to identify the perception of garments workers as to safety measures at their working place.

### 12.1. Data Analysis and Findings

#### a) Satisfaction with existing safety facilities

Responses		Number of Respondents	Percent
Strongly Disagree	1	0	0
Disagree	2	8	3.8
Somewhat Disagree	3	12	5.6
Uncertain	4	9	4.2
Somewhat Agree	5	76	35.7

Agree	6	88	41.3
Strongly Agree	7	20	9.4
Total		213	100%

Above shows that 9.4% of the respondents strongly agreed with the view that they are satisfied with existing safety facility provided by their factory. No respondent strongly disagreed. 86.4% of the respondents either strongly agreed, agreed or somewhat agreed with this view which means they are satisfied. 13.6% of the respondents are dissatisfied.

FGD reveals that satisfaction level was not high one year back. After the incidents of Rana Plaza, Tazreen Fashion and others, US Government has withdrawn GSP facility and foreign buyers have created pressure on garments owners as to compliance issues. Accord and Alliance has already started inspection factories. Labor law has been amended. And for all these reasons owners of factories have started to improve issues as to compliance.

b) Condition of structure of factory building

Responses		Number of Respondents	Percent
Strongly Disagree	1	1	.5
Disagree	2	15	7.0
Somewhat Disagree	3	15	7.0
Uncertain	4	13	6.1
Somewhat Agree	5	71	33.3
Agree	6	84	39.4
Strongly Agree	7	14	6.6
Total		213	100%

72.7% of the respondents either agreed or somewhat agreed with the view that the structure of the building in which they are working is safe. This is a very positive sign which may reduce the panic of workers by increasing the level of confidence at the time of calamity. However, in FGD, they commented that they considered only the external view of the building as they don't have that technical knowledge to comment on the quality of construction of building. They strongly requested the proper authority to check the quality of factory building. However, 14.5% of the respondents are either somewhat disagree, disagree or strongly disagree in this regard.

c) Adequacy of fire extinguishing appliances

Responses		Number of Respondents	Percent
Strongly Disagree	1	2	.9
Disagree	2	3	1.4
Somewhat Disagree	3	23	10.8
Uncertain	4	28	13.1
Somewhat Agree	5	63	29.6
Agree	6	82	38.5
Strongly Agree	7	12	5.6
Total		213	100%

44.1% of the surveyed workers believe that their factory has adequate fire extinguishing appliances. 29.6% somewhat believe it, but 26.2% workers believe that their factories do not have adequate fire extinguishing appliances. This is alarming information because if workers feel that there is not enough fire extinguishing appliances, they will be panicked at the time of fire which will result in more damages.

d) Fire fighting practice facility

Responses		Number of Respondents	Percent
Strongly Disagree	1	3	1.4
Disagree	2	6	2.8
Somewhat Disagree	3	20	9.4
Uncertain	4	36	16.9
Somewhat Agree	5	53	24.9
Agree	6	77	36.2
Strongly Agree	7	18	8.5
Total		213	100%

Among the respondents, 8.5% strongly agree and 61.1% either agree or somewhat agree with the view that their organizations provide adequate fire fighting practice facility. That means they feel that they are trained enough to fight against fire. But 30.5% of the respondents are either

uncertain about the situation or disagree or strongly disagree with this view. It implies that factories should arrange more training on fire fighting system.

e) Adequate and wide fire doors

Responses		Number of Respondents	Percent
Strongly Disagree	1	2	.9
Disagree	2	6	2.8
Somewhat Disagree	3	14	6.6
Uncertain	4	15	7.0
Somewhat Agree	5	71	33.3
Agree	6	87	40.8
Strongly Agree	7	18	8.5
Total		213	100%

82.6% of the respondents either strongly agree, or agree or somewhat agree with the view that their factories have adequate and wide fire doors. 17.4% of the surveyed workers are either not certain or disagreed as to this matter.

f) Effective smoke detection system

Responses		Number of Respondents	Percent
Strongly Disagree	1	1	.5
Disagree	2	3	1.4
Somewhat Disagree	3	7	3.3
Uncertain	4	24	11.3
Somewhat Agree	5	37	17.4
Agree	6	115	54.0
Strongly Agree	7	26	12.2
Total		213	100%

Most of the surveyed workers (83.6%) think that the smoke detection system of their factories is effective. 16.4% of the surveyed workers are either not certain or disagreed as to this matter.

g) Wide aisles for fire fighters to entre and rescue

Responses		Number of Respondents	Percent
Strongly Disagree	1	12	5.6
Disagree	2	17	8.0
Somewhat Disagree	3	17	8.0
Uncertain	4	50	23.5
Somewhat Agree	5	100	46.9
Agree	6	17	8.0
Strongly Agree	7	12	5.6
Total		213	100%

The highest percent of respondents (46.9%) somewhat agreed with the view that the factories in which they are working has wide aisles for fire fighters to entre and rescue. Only 13.6% of the respondents either agree or strongly agree with this view. The flip side, 45.1 % respondents are either strongly disagree or disagree or uncertain in this regard.

a) Openness of machineries

Responses		Number of Respondents	Percent
Strongly Disagree	1	1	.5
Disagree	2	10	4.7
Somewhat Disagree	3	7	3.3
Uncertain	4	8	3.8
Somewhat Agree	5	59	27.7
Agree	6	111	52.1
Strongly Agree	7	17	8.0
Total		213	100%

The workers have been asked to comment on the statement that the operating machines are not exposed and well-fenced. 87.8% of the respondents have positive opinion in this regard. It means they feel safety when they work with machine in the garments factory. Only 12.2% respondents

think that machines are exposed and should be well protected. Though findings of this study proves that workers are satisfied in this regard, while visiting different factories it is found that the most of the workers do not wear safety items, like they do not use hand gloves during ironing cloth.

b) Training as to use of machine safely

Responses		Number of Respondents	Percent
Strongly Disagree	1	0	0
Disagree	2	7	3.3
Somewhat Disagree	3	12	5.6
Uncertain	4	16	7.5
Somewhat Agree	5	65	30.5
Agree	6	92	43.2
Strongly Agree	7	21	9.9
Total		213	100%

92 out of 213 respondents (43.2%) agreed that they got training on how to use the machine safely. 30.5% of the respondents somewhat agree in this issue. However, FGD reveals that they got “on-the-job-training”<sup>54</sup> and learnt it step by step.

c) Condition electric connections

Responses		Number of Respondents	Percent
Strongly Disagree	1	3	1.4
Disagree	2	6	2.8
Somewhat Disagree	3	19	8.9
Uncertain	4	31	14.6
Somewhat Agree	5	56	26.3
Agree	6	76	35.7
Strongly Agree	7	22	10.3
Total		213	100%

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<sup>54</sup> On-the-job training is a form of training taking place in a normal working situation. Employees get training at the place of work while he or she is doing the actual job. It may be obtained through day-to-day experience or through instruction from a senior-level employee.

The highest level, 35.7% of the respondents agree and the second highest level, 26.3% is somewhat agreed with the view that the electric connections in the factory are safe. 10.3% of workers strongly believe it. This is also a very positive sign which may reduce the panic of workers by increasing the level of confidence at the time of calamity. However, in FGD, they commented that they considered only the external view in this regards as they don't have that technical knowledge to comment on the connectivity of electricity of building. The third highest, 14.6% of the respondents are uncertain in the issue of safe electricity connection in their factories.

d) Sufficiently wide floors, stairs and pathways

Responses		Number of Respondents	Percent
Strongly Disagree	1	0	0
Disagree	2	9	4.2
Somewhat Disagree	3	25	11.7
Uncertain	4	13	6.1
Somewhat Agree	5	63	29.6
Agree	6	79	37.1
Strongly Agree	7	24	11.3
Total		213	100%

79 out of 213 respondents (37.1%) agree that they have sufficient wide floors, stairs and pathways in their factories. 11.3% workers strongly agree and 29.6% workers somewhat agree with this view. 22% respondents are not satisfied in this regard.

e) Floors, stairs and pathways free from blockade

Responses		Number of Respondents	Percent
Strongly Disagree	1	0	0
Disagree	2	9	4.2
Somewhat Disagree	3	14	6.6
Uncertain	4	11	5.2
Somewhat Agree	5	46	21.6

Agree	6	115	54.0
Strongly Agree	7	18	8.5
Total		213	100%

More than half of the respondents (54 %) agree and the second highest of respondents (21.6 %) somewhat agree that their floors, stairs and pathways are free from blockade during the working hour in their factories. 16% of the workers feel that floors, stairs and pathways are not free from blockades.

f) Effective lighting, ventilation and room-temperature control system

Responses		Number of Respondents	Percent
Strongly Disagree	1	3	1.4
Disagree	2	15	7.0
Somewhat Disagree	3	29	13.6
Uncertain	4	19	8.9
Somewhat Agree	5	55	25.8
Agree	6	70	32.9
Strongly Agree	7	22	10.3
Total		213	100%

69% of the workers 'agrees' that they have effective lighting, ventilation and room-temperature control system in their factories. 31% of surveyed workers are not satisfied. In FGD, it is found that workers are significantly dissatisfied in particular issue on insufficient adjust fans in their workplaces.

g) Density of workers in workplace

Responses		Number of Respondents	Percent
Strongly Disagree	1	2	.9
Disagree	2	13	6.1
Somewhat Disagree	3	14	6.6

Uncertain	4	20	9.4
Somewhat Agree	5	68	31.9
Agree	6	81	38.0
Strongly Agree	7	15	7.0
Total		213	100%

The above table shows that the 7% of respondents strongly agree with the view that their workplaces are not over-crowded. Moreover, 38% workers are agree and 31.9% workers are somewhat agree in this regard. 23% of the respondents is not satisfied and feels that their workplaces are over-crowded.

h) Wide connecting roads around the factory for easy and quick accessibility

Responses		Number of Respondents	Percent
Strongly Disagree	1	0	0
Disagree	2	21	9.9
Somewhat Disagree	3	14	6.6
Uncertain	4	15	7.0
Somewhat Agree	5	60	28.2
Agree	6	85	39.9
Strongly Agree	7	18	8.5
Total		213	100%

When they have asked that they have wide connecting roads around the factory for easy and quick accessibility, 39.9 % of respondents agreed and 28.2% of respondents somewhat agreed with the statement. 9.9% of the respondents are disagreeing with the given question. However, in FGD, they are worried regarding stuck terrible jam in all of the surrounding of their factory. They also recommend that all industrial area should be outside of Dhaka and declare as an industrial area and also should be free from other human disturbance.

i) Awareness program

Responses	Number of Respondents	Percent
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Strongly Disagree	1	11	5.2
Disagree	2	18	8.5
Somewhat Disagree	3	7	3.3
Uncertain	4	13	6.1
Somewhat Agree	5	57	26.8
Agree	6	87	40.8
Strongly Agree	7	20	9.4
Total		213	100%

Above table shows that 9.4% of the respondents strongly agree with the view that they are satisfied with existing awareness program provided by their factory. 77% of the respondents is either strongly agree, agree or somewhat agree which means they are satisfied. Only 17% of the respondents is either somewhat disagree, disagree or strongly disagree. Remaining 6.1% is neutral in this regard.

Though the level of satisfaction is high right now, the situation was different one year back as revealed from FGD. After the incidents of Rana Plaza, Tazreen Fashion and others, US Government has withdrawn GSP facility and foreign buyers have created pressure on garments owners as to compliance issues. Then factory owners started the awareness programs.

### **13. Loopholes and Recommendations**

#### **Workers Conditions**

Currently only about 20% of Bangladeshi RMG workers have some understanding of their legal entitlements. Male workers are ahead of understanding of legal entitlements than female ones, although male comprises 20% of the total work force. Female workers are the main working force of the RMG section. Average age of women is 21 years, average education around 5.6 years, persistent wage gap 30%, less than one percent in managerial level.<sup>55</sup> Current statistics show that female line-operators can earn approximately 60 % of their fellow male line-operators' salaries, as the men tend to have the advantage of being employed in more technically skilled

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<sup>55</sup> GTZ (Deutsche Gesellschaft für Technische Zusammenarbeit), Social Compliance Fact Sheet: Realization of Human Rights in Bangladesh RMG Sector, May, 2010, pp. 1-2.

jobs whereas women are stuck in low-skilled jobs due to their relatively low level of education and training.<sup>56</sup>

By one estimate, [it employs 12% of women aged 15 to 30 in the country](#). In November 2013 government has raised [77% rise in the minimum wage](#) following Rana Plaza tragedy but the workers especially the female ones are yet to materialize their due dreams of decent work, security and safety.<sup>57</sup> In 1979 there were only 9 factories and in 1983, there were about 50 garment factories in the country but now more than 5,000 export oriented industries. The most tedious condition of work in the garment factories is the long working hours. On an average, a garment worker has to work for more than 12 hours a day. Mandatory overtime and less payment for overtime work is another issue which needs attention. Workers have to work for both day and night flouting the law. There is no job security and they do not get any maternity leave although according to the law they deserve it.<sup>58</sup>

Though section 384 of the Labour Act reveals that employer should train workers as to the provisions of labour law so that they have some understanding of their legal entitlements, there is no penalty provision for employers if they fail to arrange such training program. The Labour Act should be amended further and penalty provisions should be included.

Furthermore, this Act should include appropriate penalty provisions for wage discrimination between male and female workers.

Provision as to overtime matter must be effective.

## **Trade Union**

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<sup>56</sup> The DiA Blog, Awareness, Experience and Engagement, The Garment Industry in Bangladesh from Women's Perspective, December 11, 2011, see link < <http://developmentinaction.wordpress.com/2011/12/11/the-garment-industry-in-bangladesh-from-a-womans-perspective/> > accessed on June 3, 2014.

<sup>57</sup> The Amin, Syeda, Responding to Rana Plaza: a made-in- Bangladesh boycott won't girls, The Guardian, April 30, 2014.

<sup>58</sup> Mridula, Shakila Matin and Khan, Khosnur Afrin, Working Conditions and Reproductive Health Status of Female Garments Workers in Bangladesh, 2009, see link < <http://www.amrc.org.hk/system/files/Final%20Garments%20Study%20Report.pdf> > accessed on June 3, 2014.

Changes to labour laws in 2013 have produced a [rise in union registrations](#), but the number engaged in them is still too low. Still, the requirement of signatures of 30 percent workers for formation of trade unions is still mandatory. Consequently, in many factories workers are not interested in joining the unions as they fear losing their jobs, although only 5 percent of the workers are members of unions. Currently, the total number of trade unions in the garment sector is nearly 260, but they are divided and cannot raise their voices collectively to realise their demands.<sup>59</sup> Government has adopted a National Labour Policy 2012 to ensure decent work, occupational safety and health within the general framework of rights. The recent amendments in 2013 into the BLA, 2006 to a large extent have some positive changes to facilitate security, safety, and to expedite trade union coupled with collective bargaining agents to ensure better compliance. However, effective application of the National Labour Policy 2012 is a must to ensure decent work, occupational safety and health within the general framework of rights of workers. Government may make a 'Special Monitoring Cell' that will monitor only the security and safety net of workers.

Accord and Alliance are inspecting factories in Bangladesh nowadays. This is a very positive approach for the security and safety net of garments workers. And it is found through FGD that factory owners are improving factors that affect security and safety of garments workers But Accord and Alliance may not inspect regularly for long. In this case, security and safety net of workers may deteriorate again. If Government make 30 'Special Monitoring Cell (SMC)' to monitor the security and safety net of workers and if each Cell inspects 200 factories in every year then 30 Cell can monitor 6000 factories every year. So each and every factory will under monitoring system and each factory will be monitored at least once in a year. There will be 5 'Apex Monitoring Cell (AMC)' which will visit factories that are already inspected by 'SMC'. AMC will inspect factory on a random sample basis. So the factories inspected by SMC will always be careful that AMC can inspect anytime. Each AMC will have members from Accord and Alliance to make it a transparent one. This 'Random Double Monitoring Approach

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<sup>59</sup> Mirdha, Refat Ullah, 16 Garment Factories Sack Union leaders: Labour Ministry Wraps up Investigation, The daily Star, February 11, 2014, see link <<http://www.thedailystar.net/business/16-garment-factories-sack-union-leaders-10778>>, accessed on June 3, 2014.

(RDMA), will surely augment the image of garments industry in Bangladesh and will help to brand Bangladesh.

## **Building Safety**

Regarding the housing of heavy duty RMG industry with less costly building is also a cause of concern for future collapse like Rana Plaza, which was the second highest building collapse related disaster after the World Trade Centre in September 11. All the seven factories in Rana Plaza has all sorts of compliance secured by the BGMEA, Factory Inspection Department, Directorate of Environment, Fire Service Department, by the except the building related one. The Comprehensive Disaster Management Program found that there are 78,000 risky buildings which will be collapsed if an earthquake with 6 magnitude hits. DEFI and Fire Service have identified 943 unsafe factories out of 3,143 they visited and out of 943 buildings 150 are extremely risky which should be demolished or otherwise they may collapse at any time.<sup>60</sup> Nobel Laureate Professor Yunus in support of the Garments Industry Transparency Initiative (GITI) and Happy Workers Tag has suggested for the betterment of workers' rights to heel the industry in the days ahead.

So factory owners must follow building code strictly. Those who will not follow it must be punished severely. As this labour intensive industry, there must be a 'Special Approval Authority (SAA)'. All members of this team must be expert and factors like earthquake must be considered.

## **Housing**

Most young men and women who work in Bangladesh's garments industry live in the urban slums mushrooming around the industrial areas of major cities including Dhaka, Gazipur, Narayangang, Narshindi, Chittagong etc. Local gangs control the housing, so the women become prey to slumlords who charge exorbitant rents, equal to about one-third the women's income. The

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<sup>60</sup> <https://www.youtube.com/watch?v=1D5UXCEOrNk>, **Published on Oct 29, 2013**

environmental and hygienic conditions of these crowded urban slums are appalling. Here, women workers, mostly single and earning meager wages, are vulnerable to verbal and sexual assaults. The majority of garment workers are women. The workers are mainly from the remote rural areas. For them it becomes difficult, if not impossible to arrange a secure housing facility with their limited income. In most of the cases, they are to live in the slums which are highly crime pron. Living in the slums involves the highest risk for the women garments worker. In addition, the socio-economic condition of Bangladesh has made their condition more vulnerable. Our society, generally, pose a negative impression to the people who are living in the slums; when the slum dweller is a woman and she lives alone apart from her family, the stigma intensify. Taking the advantage of the situation people can easily sexually harass the garment workers. In such a situation, the factory accommodation is the most secure option for the women garments workers.<sup>61</sup> Therefore, the Bangladesh Labour Act may have provision recommending factory supervised housing facilities for the workers. In FGD, female workers mentioned that they are worried about their unsafe accommodation.

### **National Council for Industrial Health and Safety**

Provision relating to the National Council for Industrial Health and Safety seems inadequate as the Council, which will be constituted under the section 323 of the Bangladesh Labour Act, 2006 will not be able to represent the interest of the workers. Practice shows that the Secretaries and Ministers more or less biased to the interest of the powerful employers. Under current constitution of the Council the representatives of the workers will hardly get an opportunity to represent their safety and security interest. Therefore, it would be proper to incorporate a provision for constitution of another National Council for Industrial Health and Safety which will exclusively constituted by the representatives of the workers. The proposed Council will directly hear the claim relating to health and safety from the workers and bargain to establish the claim.

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<sup>61</sup> Zohir & Paul-Majumder , in Women Garments Worker in Bangladesh: Economic, Social and Health Condition, Bangladesh Institute of Development Studies, (1996) pp. 79-108.

## **Ensuring job security of the worker who discloses the non compliance of the safety and security measure**

A recent study, conducted on 256 workers by CARE Bangladesh, revealed that around 39% of them believe high posts are allotted only for men, while 40% identified misbehaviour of supervisors as the reason behind their dissatisfaction at work. The study also showed that 79% of workers were employed without an appointment letter and 75% live in unhealthy conditions. The study also concluded that 42% of labourers experienced a fire incident at least once during their career.<sup>62</sup> The RMG factories operating in the export processing zones (EPZs) are officially outside the scope of the BNA, 2006 and system of labour management relations. Overall, the entire industry seems to be particularly affected by the lack of safe and sound industrial relations and collective bargaining proceeding towards a downwards spiral of lack of recognition of workers' rights which is neither economically nor socially sustainable.<sup>63</sup>

Usually it is found that the workers do not disclose any fault in the safety and security measure of their factories as in this case they may be fired from the job by the employers. As a result most often the inspector fails to identify the fault. To deal with this problem there should have a provision providing that the worker who discloses any such fault shall not be fired from his job under any circumstances. Inspectors also should use 'Observation Method' to collect information. When they interview workers, workers become worried about their job and do not provide accurate information. If Inspectors use observation method to gather information, the output will be biasfree.

## **Empirical output and recommendation**

Though 50% of the workers feel that they are satisfied with present safety situations, remaining 50% are either somewhat satisfied or not satisfied. Most of the workers think that their feeling of safety depends on strength of factory structure and accidents like fire. Around 56% of the

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<sup>62</sup> Tazlina Zamila Khan, 'Female RMG workers stress education to attain full potentials', Dhaka Tribune (March 10, 2014), available at <http://www.dhakatribune.com/education/2014/mar/10/female-rmg-workers-stress-education-attain-full-potentials#sthash.L8I85PYv.pOfxbbK1.dpuf>, last accessed 4 June 2014.

<sup>63</sup> See link at <[https://erecruit.ilo.org/public/hrd-cl-vac-view.asp?jobinfo\\_uid\\_c=28740&vaclng=en](https://erecruit.ilo.org/public/hrd-cl-vac-view.asp?jobinfo_uid_c=28740&vaclng=en)>, accessed on June 2, 2014.

surveyed workers believe that their factories do not have adequate fire fighting appliances. This concept makes them panic at the time of accident and they forget what they have learnt from fire fighting training and as a result more damage occurs. Moreover, workers feel that the fire fighting training provided by the employer is not adequate. The Labour Act should specify the frequency of fire fighting training and specific number of fire fighting appliances.

Empirical study (specially through FGD) reveals that workers have no knowledge about building code or about the construction of building, however, they have made their comments on the basis of outside appearance of building, even in a very old building they feel fit for work. Similarly, they have no idea about the safe electric connection in their working place. They are worried about it. Regular monitoring by 'SMC' will make them confident about the safety of their workplace.

The awareness program as to safety and security held on the basis of buyer's order on their factory. If buyer has some order to their factory and like to know the condition of working place than the authority of the factory take some awareness program in this regards. So, from the result of empirical study, it can be recommended that the inspector of the factory should be more responsible and accountable to the superior authority. Number of Inspectors of the factory should be increased and will not be biased in any regards.

#### **14. Limitation and Further Scope for Study**

Following will be the limitations of the current study:

- i. This study has not investigated the EPZ workers who are not covered by the Bangladesh Labour Act, 2006. It is because there is a separate law titled EPZ Workers Association and Industrial Relations Act, 2004 [authors' translation] to regulate the EPZ workers. Due to time constraint.
- ii. This study has not investigated the safety and security issues of any other labours except the garments workers.
- iii. All the International Conventions have not been reviewed due to time constant and to keep the report in a manageable size.

- iv. In the empirical part of the study only the garment workers have been interviewed. To make the study more comprehensive other stakeholders, such as, owners and regulatory bodies officials are not interviewed.

## **15. Conclusion**

Undoubtedly the RMG industry is creating opportunity for both men and women despite their semi-skilled or unskilled position. Finding no other job opportunities they join there but they become skilled workers within few years contributing to the best of their capacity. They are doomed to this present condition terming them as modern day slaves. In most of the industries, workers are not getting proper working environment with security and safety in accord of compliance to neither the BLA, 2006 nor the ILO based international standard. The working conditions and pay for the Bangladeshi workers who work in these clothing factories are among the world's worst. The tendency of the owners of RMG industries to flout the laws engaging unscrupulous compliance by wild running factories, endangering workers lives, ruining environments and undermining the future image of the country to overseas countries should be revamped for the upward surge of workers and employers. All stakeholders involving employers, workers, governments and international as well as national bodies should come forward with the sense of togetherness to bring significant change in this industry. The monitoring of compliance to satisfy buyers cannot bring meaningful changes for the sustainable industry with stability rather ethical compliance of laws by the employers can make a booming difference yielding name, fame and glory for the nation.

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## Annexure

### Questionnaire for Personal Interview

Research Topic:

**Security and Safety Net of Garments Workers in Bangladesh: Need for Amendment of Labor Law**

*The following statements relate to your perception about the security and safety net of the factory at which you are working. Selecting 1 (One) means you strongly disagree & selecting 7 (Seven) means you strongly agree with the statement. There is no right or wrong answer, only your perceptions about the safety and security is important. Feel free to give your opinion on all statements. All information will be treated as confidential & will be used for research purpose only.*

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Respondent's Name (*Optional*) :

Designation :

Organization :

Gender : Male Female

*(Please tick  $\surd$  respective boxes)*

1. You are satisfied working in this organization.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

2. The structure of factory building in which you are working is safe.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

3. Your factory has adequate fire extinguishing appliances.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

4. Fire practice system of your factory is satisfactory.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

5. Your factory has adequate and wide fire doors.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

6. Your factory has effective smoke detection system.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

7. Your factory has wide aisles for firefighters to enter and rescue.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

8. Operating machines are not exposed and well-fenced.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree

1	2	3	4	5	6	7
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9. You are well trained about how to use the machine safely.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

10. Electric connections in your factory are safe.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

11. All floors, stairs and pathways are sufficiently wide.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

12. All floors, stairs and pathways always remain free from any blockade.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

13. Lighting, ventilation and room-temperature control system of your factory are effective.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

14. Your factory is not over-crowded.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

15. Connecting roads to your factory are wide and it is easy for rescue team to come to your factory in time.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7

16. Your factory organizes awareness program for you as to safety and security periodically.

Strongly Disagree	Disagree	Somewhat Disagree	Neutral / Uncertain	Somewhat Agree	Agree	Strongly Agree
1	2	3	4	5	6	7



### Death is not always the winner

It's neither a painting nor a photoshopped composition. It's a real photograph of garments workers buried under collapsed building in Savar, near capital of Bangladesh. It's assumed that when concrete blocks cracked down over them these two poor workers tried to save each other in their own arm. Nobody yet knows their relation. May be they co-workers who has been there for long time, may be siblings, or lovers or spouses. Whoever they are it shows a one of the most touchy photographs people has seen in recent history. Rescue workers who were present there hardly could resist their tear.

