Legal Regulation of ‘Decent Work’: Evidence from Two Big Industries in Bangladesh

Mia Mahmudur Rahim* 

In most developing countries, the overall quality of the livelihood of labourers, work place environment and implementation of labour rights do not progress at the same rate as their industrial development. To address this situation, the ILO has initiated the concept of ‘decent work’ to assist regulators articulate labour-related social policy goals. Against this backdrop, this article assesses the Bangladesh Labour Law 2006 by reference to the four social principles developed by the ILO for ensuring ‘decent work’. It explains the impact of the absence of these principles in this Law on the labour administration in the ready-made garment and ship-breaking industries. It finds that an appropriate legislative framework needs to be based on the principles of ‘decent work’ to establish a solid platform for a sound labour regulation in Bangladesh.

The notion of ‘decent work’ is important to the development of well-defined and consistent labour regulation in developing countries (ILO, 1999, 2001). Its objective is to ‘promote opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, and security and human dignity’ (ILO, 1999: 3; ILO, 2001; Ghai, 2003). It helps to develop a just and socially responsible workplace environment and a close relationship between socio-economic policies and corporate social responsibility. ‘Decent work’ also requires the establishment of institutional and regulatory frameworks to attain and sustain these objectives.

This article deals with the legal regulation of ‘decent work’ in two big industries of the world: the ready-made garments (‘RMG’) industry and ship-breaking industry in Bangladesh. With around 5000 factories employing about 3.6 million workers, the RMG industry of this country is the second top garment exporter in the world (World Bank, 2012: 7). The ship breaking industry is not just one of the major industries of Bangladesh, it also accounted for half of all ships scrapped in the world in 2008 (Economist, 2012) and was the fifth-largest ship breaking industry in the world in 2012 (Economist, 2012). However, public agencies and employer groups do not appear to prioritise enforcing labour rights and violations of workers’ rights (for example, long working hours, forced overtime, underpayment, and discrimination) are common in these industries (Hossain, Jahan and Sobhan, 1988, in Heyzer, 1988; Chowdhury and Ahmed, 2005; Kolben, 2004; Zahir, 2003; Vader, 2005).

Bangladesh passed the Bangladesh Labour Law (the Code) in 2006 to assist the development of its labour regulation. The Code was praised because its approach adopted the latest developments in labour-related international practices (Chowdhury and Denecke, 2007). In spite of these promises, the Code has not led to the development of a systematic and accountable labour administration in the industries of this country. In fact, its impact on the development of the general condition of labourers is insignificant. Chronic labour agitation in the industrial cities and inhuman treatment of labourers in some industries indicate that the Code is prescriptive by nature and lacks adequate focus on the creation of a labour-friendly corporate culture. It does not possess

* Mia Mahmudur Rahim is a lecturer in the School of Accountancy at Queensland University of Technology. He did his PhD in Macquarie Law School with the Macquarie University Research Excellence Scholarship. He did his LLB with Honours and LLM from Dhaka University; LLM in International Economic Law from Warwick University as a Chevening Scholar; and MPA from Lee Kuan Yee School of Public Policy with a National University of Singapore Graduate Scholarship. Before he joined Macquarie University he was a lawyer and Deputy District and Sessions Judge in Bangladesh. He also worked for the Law Commission and the High Court of Bangladesh.

1 The ILO estimates that every year in Bangladesh 11,700 workers die from work-related accidents; 24,500 die from work-related diseases; and eight million suffer work-related injuries, many of which result in permanent disability. The Bangladesh Occupational Safety, Health and Environment Foundation estimates that at least five workers are killed and 20 critically injured at work every day. About 8,000 industrial accidents, including 20-40 fatal accidents, are annually reported to the Department of Inspection for Factories and Establishments. Bangladesh has not ratified the Occupational Safety and Health Convention (No 155). The Code provides the opportunity for workers, their families
suitable strategies to attract business owners and factory managements to incorporate the principles of ‘decent work’ as a standard part of self-regulated corporate responsibility.

This article assesses the presence of the ‘decent work’ principles in the Code and their impact on labour administration in two of the biggest industries in Bangladesh. In the second part, it describes ‘decent work’, provides a short note on Bangladesh and the Code and then assesses the Code by reference to the four social principles developed by the International Labor Organisation (‘ILO’) for ensuring ‘decent work’. In the third part, it describes recent labour turmoil in the ready-made garment industry and the labour management in ship-breaking yards. Finally, it concludes that the labour-related legislation of this country should incorporate the principles of ‘decent work’, so that this legislation can effectively help both the factory owners and labourers to establish a solid platform for sustainable and fair labour regulation.

The Notion of ‘Decent Work’ in the Bangladesh Labour Law 2006

The ILO defines decent work as ‘the aspirations of people in their working lives’ (ILO, 2001). According to this concept, labourers’ working lives should meet certain standards and be free of discrimination (Ghai, 2003). The ILO requires that ‘work’ should be productive and deliver a fair income, security in the workplace, and social protection for families. It should provide prospects for personal development and social integration; and should allow people the freedom to express their concerns, to organise, and to participate in the decisions that affect their lives. This definition implies that a movement toward decent work requires an integrated approach to labour regulation. Labour policy instruments need to be socially responsible and consistent with macroeconomic measures and the investment climate (Arup, 2001: 243).

This article focuses on the socio-legal notion of decent work. This can be considered as consisting of four basic themes: access to employment; promotion of rights at work; social protection; and social dialogue (ILO, 1999: 2). In this concept, employment is considered not only a means of sustaining life and meeting basic human needs, but also an activity that affirms individual identity and provides personal satisfaction (Fields, 2003: 240). It is the way in which individuals strive to develop their potential and use their skills to contribute to the common wellbeing. This concept considers rights in the workplace to be a basic need for the development of a sustainable work environment. It requires that every worker enjoy certain rights irrespective of type of employment (that is, whether in organised labour, in the formal/informal economy, at home, in the community or in the voluntary sector). It refers to social protection as a means to protect labourers in general from the vulnerabilities and contingencies that often compel them to leave their work. It considers social dialogue an important process required for the development of a sustainable and labour-friendly environment at the industry level. This process helps employers and employees to minimise their differences, defend their rights, and ensure social equity.

Based on these basic themes, Muqtdara (2003: 2) has identified the notion of decent work as having four interrelated principles that serve as strategic objectives to develop decent work in corporate self-regulation:

1. Employment is not simply a way to access any job, but rather a way to access a full-time job that is acceptable, productive, and freely chosen. Hence, promotion of employment should be one of the central objectives of economic and social policymaking.
2. Fundamental rights at work must be safeguarded.
3. … workers’ rights must be emphasised in industrial policy-making.
4. Social dialogue to forge fair compromises and consensuses (on otherwise conflicting issues of distribution and working conditions) must be promoted.

and trade unions to file court cases for compensation in the event of work-related accidents and diseases. Capacity to pursue legal recourse is very limited, however, and the labour court system is weak: see Dunn and Mondal (2010: 7).

ILO considers ‘decent work’ as an agenda for development. The incorporation of this concept in labour regulation was tested under the Decent Work Pilot Program during 2002 to 2005 in eight countries of which Bangladesh was one. For details of ILO’s views on this agenda, visit <www.ilo.org>.
The notion of decent work has increasingly been adopted as a strategy for sustainable-development and poverty-reduction goals in different countries. The Millennium Declaration, for example, calls for global cooperation on strategies for decent and productive work. The Non-Aligned Movement echoed this and affirmed that ‘[a] decent standard of living, adequate nutrition, health care, education, and decent work for all are common goals for both the South and the North’ (ILO, 2001b: 12). This concept upholds non-discrimination and individual dignity and social equity in the workplace as necessary to ensure freedom (UNDP, 2000: 1). The UNDP has included ‘decent work’ as a criterion in preparing ‘Human Development Index’. It is now a vital component for measuring development. Pope John Paul II also supported a call for ‘a global coalition for decent work’ (Siddiqui, 2005: 2).

The social notion of decent work has two perspectives. The broader perspective is related to the labour regulation of developing countries in general, while the narrower perspective is related to possible strategies for incorporating this notion into the main source of labour regulation of these countries.

The Labour Law 2006

Bangladesh is a developing country in South Asia and over the last decade its GDP has averaged a 5.8 per cent growth rate. The general corporate environment is characterised by a concentrated ownership structure, a poor regulatory framework, dependence on bank financing, and a lack of effective monitoring. It has an abundant labour force, however. Bangladeshi people working abroad are the main source of its foreign currency earnings. Its ready-made garment (RMG) and ship-breaking industries are also internationally prominent. Exports by the RMG sector in April 2011 totalled US$14,170 million (Bangladesh Bank, 2011), and its ship-breaking industry is one of the largest in the world. The availability of cheap labour has led to the success of these two industries. The Code is the main source of legal regulation of labour in Bangladesh. This section presents the background to the Code and assesses the degree to which it is based on the principles of decent work described above.

The history of labour law of Bangladesh can be traced back to colonial times. In 1881, during British rule, the first labour law was enacted in the Indian sub-continent. Later, the British government introduced several laws on different labour issues, for example, working hours, employment of children, maternity benefits, trade union activities, and wages. Labour laws enacted during this period included the Factories Act 1881, Workmen’s Compensation Act 1923, Trade Unions Act 1926, Trade Disputes Act 1929, Payment of Wages Act 1936, Maternity Benefit Act 1939, and the Employment of Children Act 1938 (Hossain et al, 2010). From independence in 1971 until 2006, labour regulation in Bangladesh was based on the Factories Act 1961. In 2006, the country adopted the Code.

Before the enactment of the Code in 2006, there were 44 labour-related laws covering four broad categories of labour issues: (1) wages and employment; (2) trade union and industrial disputes; (3) the work wage environment and occupational health; and (4) labour administration and industrial relations. This Code repealed almost all of these laws and consolidated all these issues within its ambit (Islam, 2009: 385). It is now the core legislation covering almost all labour related issues, including employment contract, wage and benefits, workplace environment and remedies for violation of its provisions.

---


4 ‘Human Development Index’ (HDI) is a composite index that helps to measure development by combining indicators of life expectancy, educational attainment and income. The United Nations Development Program regularly prepares this index and it is a popular reference for both social and economic development. For details, visit http://hdr.undp.org/en/statistics/hdi/

5 In four out of the last six years, its economy has grown at around six per cent. For details, see GDP, Savings and Investment, Ministry of Finance at <www.mof.gov.bd/>.

6 In June 2011, this sector earned US$1000 million. For details, visit Bangladesh Bank, Economic Data at <www.bangladesh-bank.org/>.
The Code has been praised for its approach toward the latest development of labour-related international practices. For instance, the Bangladesh-German Development Cooperation conducted a comparative analysis of the Code against seven internationally-recognised general codes of conduct related to labour issues at the industry level. It found that 100 per cent compliance with this Code would satisfy 85 per cent of the general requirements of the international labour standards (Chowdhury and Denecke, 2007).

Although the Code covers almost all features necessary for maintaining good legal regulation of labour, it achieves only poor adherence to labour standards in industrial production. It seems to have a comprehensive set of provisions that reflect its relationship with all the core labour standards of the ILO but, in operation, has been unable to develop sustainable working environments in any industry. In the recent past, labourers in the manufacturing industries of Bangladesh have experienced numerous violations of rights supposedly guaranteed by the Code. Chronic labour agitation in the industrial cities and inhumane treatment of labourers in some industries show that the Code is prescriptive by nature and does not focus on the development of a labour-friendly corporate culture. This article argues that the Code has failed to force business owners to change their behaviour so that corporate self-regulation of decent work can enable a more systematic and accountable labour administration.

**Notion of employment**

While the Code provides that the objective of employment is a commitment to achieve ‘full, productive, and freely chosen employment’, it seems that the Code is, in fact, treated as a subset of corporate law in which employees are considered assets or appendages of the corporation. It does not seem to consider that a person’s employment is about livelihood, identity and citizenship, and that it is not akin to the holding of shares or the patronage of a client (Murray, 2004: 123). The Code does not clearly convey to employers that labour is not a commodity. The Code implies, for example, that all wages and hiring or firing should be strictly institutionally mandated, without any relationship to productivity (Muqtada, 2003: 31). Because of this, although it is mandatory for the employers to provide appointment letters and identity cards to all labourers, a large number of industrial labourers are still deprived of these. One study revealed, for example, that 73.60 per cent workers never received an appointment letter from their employers (Khatun et al, 2007: 49). This is an improvement on earlier findings, which reported that only 5.4 of men and 4.9 per cent women ever received appointment letters (Majumder, 2003). Another study showed that an informal recruitment process is common in this country’s industries. For instance 75 per cent of women and 57 per cent of men in the RMG industry were hired informally (Majumder and Begum, 2000: 38). Employers prefer an informal process as they can arbitrarily sack labourers and bypass their right to compensation (Yonus and Yamagata, 2012: 10).

As mentioned, the Code treats labourers as indistinguishable from other stakeholders (for instance, shareholders and customers). Moreover, its strategies do not acknowledge that the corporations are regulatory actors in the setting of terms and conditions of employment and workplace cultures. Hence, its provisions are mostly prescriptive and merely address the roles and interests of the labourers at the central position in the regulatory scheme. A survey conducted by the Fair Labour Association in 2005 found, for example, that the malpractices in the clothing factories’ labour administration resembled bonded labour. It showed that rates of forced labour, harassment and abuse, child labour, and lack of awareness of codes of conduct in this industry were the highest in the world (Berik and Rodgers, 2006: 39). Another study showed that close to three-quarters of the employed workforce—whether in agriculture, industry, or services—worked for more than the standard 40 hours per week in 1999-2000 (Labour Force Survey, 2000 in Muqtada, 2003: 24). After the enactment of the Code, this situation did not change. A recent survey-based study found that it is common for workers in the RMG sector to work 72 hours per week with only two days off per month, which is considerably worse than in China and other regions (Berik and Rodgers, 2006: 22). In a study conducted in 2010, all respondents affirmed that they work more than eight hours a day, sometimes up to 13-14 hours a day (Hossain et al, 2010). In the same study it was found that about one third of respondents do not know about the provision for extra payment
for overtime (Hossain et al, 2010). These findings suggest underpaid labourers remain the ‘working poor’ in Bangladesh.

The Code has been unable to change the traditional mindset of corporate owners and managers. This was reflected in a hearing on labour rights status in Bangladesh’s garments and frozen food industries. On 4 October 2007, the United States Trade Representative (USTR) heard a petition lodged by the American Federation of Labour and Congress of Industrial Organization (AFL-CIO). AFL-CIO brought four main allegations, including violation of domestic and internationally-recognised workers’ rights in Export Processing Zones (EPZs) in Bangladesh; violation of domestic labour laws and internationally recognised labour standards in the RMG industries; similar violations in shrimp- and fish-processing industries; and repressive and violent actions taken by government security forces against trade unionists, workers, and labour rights groups.7

The provisions of this Code that impose undue restrictions on the right to strike; allow government authorities to appeal against court verdicts in labour-related cases; empower employers to terminate employees without cause, prevent labourers from engaging in trade-union activities in the establishment; and prohibit trade-union offices and industrial actions within 200 meters of the relevant establishment’s premises should be revisited.8 The provisions that undermine unionism in EPZs should also be revised to uphold the freedom of association and the right to bargain collectively for labour welfare in industries. To this end, the EPZ Workers’ Associations and Industrial Relations Act was passed in 2004, but it has been criticised for provisions that severely restrict the right of EPZ workers to organise themselves.9 For instance, Section 18(2) of this Act undermines and interferes with the right of workers’ organisations to organise their administration and activities without interference from public authorities, as it requires workers’ associations to obtain permission from the executive chairman of the Bangladesh Export Processing Zones Authority (BEPZA) before receiving any funds from outside sources. It is also a procedural Act, which only cursorily describes the substantive goals and liabilities of employers regarding labour unionism in industries.

Fundamental rights at work

Social issues related to the determination of the standards of decent work can be contextual and change with changing industry/employee circumstances (Fields, 2003: 240). The ILO has established only very basic characteristics of decent work. It declares that to ensure decent work, workplace regulation must promote and safeguard labourers’ freedom of association and eliminate child labour, forced labour, and discrimination at work.10

The Code has provided guidelines for the formation of participatory committees in industries as an alternative to unionism. Employers have accepted this arrangement but, in most cases, workers do not consider this arrangement a viable alternative to labour unions in factories, as the provisions for these committees do not ensure their true representation (Berik and Rodgers, 2006: 5).

---

7 See US Department of State (2008). In the last two decades, at least 13 major incidents occurred in the garment factories, claiming the lives of more than 1300 workers. Among them, two major incidents in the recent past (the fire accident in KTS garment in Chittagong, and the collapse of the nine-storied Spectrum Garment Building) caused widespread shock and showed the vulnerable situation of workers in this industry. For details, see News Step (2009).

8 Sections 20, 180, 221 of the Bangladesh Labour Law 2006.

9 There are six EPZs in Bangladesh. They are governed by the Bangladesh Export Processing Zones Authority Act 1980 (BEPZA Act). Section 11A of this Act empowers the government to exempt EPZs by notification in the Official Gazette from the operation of all or any of the following enactments: the Boilers Act, 1923; the Employment of Labour Act, 1965; the Factories Act, 1965; and the Industrial Relations Ordinance, 1969. On 6 March 1986, the Government of Bangladesh issued a notification under section 11A of the BEPZA Act exempting the EPZs created under the Act from the application of the Industrial Relations Ordinance, 1969, and the Employment of Labour (Standing Orders) Act, 1965. On 9 January 1989, the Government issued another notification exempting EPZs from the application of the Factories Act, 1965. As a consequence, EPZ workers in Bangladesh had been deprived of the right mentioned in the Bangladesh Labour Code 2006 to form and join trade unions and to bargain collectively with their employers. For details see Gopalakrishnan (2007: 15).

10 These rights are mentioned in the ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998. This Declaration is available at <www.ilo.org>.
the development of labour welfare-oriented arrangements has been slow.11 The Code has failed to develop a positive perception of the role of trade unions play in industrial development or reduce employers’ passive attitudes toward unionism. The trade union movement is therefore weak and getting weaker. It is confined mainly to state-owned enterprises, with very little presence in the private sector. As a result, the number of labour-related organisations in this country has not been increased as it has in the case of industrial units. According to the Ministry of Labour and Employment data, trade unions had only 2.2 million workers in June of 2009. This equates to roughly four per cent of the country’s labour force (Dunn and Mondal, 2010: 12). Over the past five years, the number of registered trade union members increased by only 1.8 per cent, far less than the increase of the labour force.12 One study shows that the number of registered trade unions in the RMG industry increased from 112 in 2000 to 123 in 2004 and that the number of federations increased from 8 to 10. Against 4,355 registered RMG factories in 2005 (Jabbar, 2005), this sector had only 54 registered workers’ associations. In 2005, 285 workers’ welfare committees sought registration but only 87 were successful (Jabbar, 2005: 55, 63).

The Code does not contain specific provisions regarding workplace discrimination.13 It does not apply the principle of equal wages for male and female workers for work of equal nature or value to the non-wage aspects of remuneration, and does not prohibit discrimination in workplaces. In Section 148, it mentions that the employer is bound to provide the minimum wage to labourers. In Sections 149 and 289, it mentions that payment of wages less than the minimum level set by the government is an offence punishable by imprisonment (of one year), fine (of US$66.35), or both. These sections aim to encourage employers to maintain standard wages, but this is not enough to manage gender discrimination in the workplace in a country where it is prevalent in every industry. An occupational wage survey of non-agriculture workers in 2007 found that women earned an average of 21 per cent less per hour than their male counterparts (Capsas, 2008). According to a World Bank report, women in rural and urban areas earned 60 per cent and 56 per cent of men’s wages, respectively.14

A traditional culture of job segregation is also prevalent in Bangladesh. This is evident from the frequent complaints that female workers are underpaid in the RMG industry (Berik and Rodgers, 2006: 23). There are also a large number of complaints from workers regarding discrimination in the assignment of job responsibilities, inasmuch as men are preferred in higher-skilled and higher-paid jobs (Chawdhury and Ahmed, 2005: 100,108). According to a survey conducted by Nari Unnayn Kendra, the discrimination rate in RMG factories located in EPZs is 20 per cent, whereas in factories working with buyers it is 50 per cent. In factories working with buyers’ agents it is 70 per cent; and in sub-contracting factories it is 70 per cent (Shefali, 2005).

The Code’s provisions related to workplace health and safety risks are ineffective for boosting corporate management. In their 2008 study, Berik and Rodgers find, for instance, that inadequate fire-safety equipment and training, inadequate first-aid kits and procedures, inadequate toilet facilities, and lack, or non-use, of protective gear are common in non-EPZ factories (Berik and Rodgers, 2006: 22). One of the reasons for this situation is the lack of adequate and effective provisions relating to these issues in the Code. This could also be a reason for employers’ negligence in failing to supply adequate safety gear and training. This was

---

11 This is despite the fact that Bangladesh has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No 98) on 22 June 1972. For the list of the ILO conventions that are ratified by Bangladesh, visit <http://webfusion.ilo.org>.

12 An interesting point regarding unionisation trends in Bangladesh is that the rate of increase of registered labour unions is higher than the rate of registered members in the unions. In 2009, the number of registered trade unions increased by 5.3 per cent, while the registered members of these unions increased by just 1.8 per cent. This indicates that there is an increasing fragmentation of the trade union movement in Bangladesh. For details, see Dunn and Mondal (2010: 12).

13 Section 345 is the only section in this Code that deals with discrimination in work places. It mentions that the employer must ensure equal wages for equal work. For details, see Kabeer and Mahmud, 2004.

evident from studies by Hossain et al (2010), which found that 46 per cent of respondents did not receive any information or training regarding safety tools from their employers.

In responding to the violations of its provisions and in efforts to restore workers’ rights, the Code has mostly depended on coercive measures. These, unfortunately, include insubstantial fines and imprisonment terms that have proven ineffective. For instance, the maximum fine for a breach of a Code provision that causes death is only US$1,378.64, and the maximum imprisonment is four years. Moreover, according to Section 302 of this Code, the maximum fine for using a false certificate of fitness at the factory premises is only US$13.79. These provisions of the Code urgently need to be revised.

Social Security Provisions

Bangladesh does not have a regulatory framework that can provide social protection to all its labourers in all sectors (Dialogue, 2008). Instead, protected labourers in the civil service, public enterprises and autonomous agencies enjoy pension schemes, provident funds, and health and group life insurance, while labourers in private manufacturing enterprises are left vulnerable regarding social security. Due to the lack of suitable strategies in the Code and the regulatory framework, women labourers rarely receive maternity leave with payment. The Code does not have any provision requiring employers to hold the position of a pregnant labourer while she is on leave to give birth. Pregnant labourers generally have to quit their jobs to have the baby and later seek a new job (Berik and Rodgers, 2006: 24). The Code defines minimum labourer ages for light, regular, and hazardous work (12, 14, and 18, respectively) but does not clearly define these types of work. Although the vast majority of child labour occurs in the informal economy, the provisions related to child labour in the Code only address the formal sectors. The Code does not provide any legal status or recognition for domestic labourers, and it does not call for a priori design of a social safety net. It also lacks provisions on crucial issues such as unemployment insurance, and retraining and redeployment mechanisms.

Strategies for Stakeholder Engagement and Social Dialogue

In the concept of decent work, stakeholder engagement and social dialogue related to labour regulation include all types of negotiation, consultation, and exchange of information among representatives of governments, civil society groups, employers, and workers on issues of common interest. Though the effectiveness of these strategies varies subject to contexts and circumstances, there are common requirements for their success:

1. Respect for the fundamental rights of freedom of association and collective bargaining;
2. Strong, independent workers’ and employers’ organisations with the technical capacity and knowledge required to participate in social dialogue;
3. Political will and commitment to engage in social dialogue on the part of all parties;
4. Appropriate institutional support (Dunn and Mondal, 2010: 12).

The Code does not define these requirements clearly. It does not enable civil society engagement in labour related issues and hence cannot adequately facilitate stakeholder

---

15 Section 309(1) of the Bangladesh Labour Law 2006. For a comprehensive a list of different offences and criminal punishment for the offences under this Code, see the Bangladesh Worker Safety Program of the Centre for Corporate Accountability at <www.corporateaccountability.org>.

16 Employees in the public sector comprise only four per cent of the total labour force of Bangladesh. Employees in the formal private sector comprise 17 per cent and the workers in the informal economy constitute the rest. For details, see Dunn and Mondal, 2010: 8.

17 According to the Second National Child Labour Survey conducted by the Bangladesh Bureau of Statistics in 2002-2003, there were 4.9 million working children — 14.2 per cent of the total 35.06 million children in the age group of 5-14 years. The total working child population between 5 and 17 years old is estimated at 7.9 million. Another survey in 2006 revealed that of these child labourers, the agriculture sector accounts for 62 per cent, while the service and industrial sectors account for 23 per cent and 15 per cent respectively. For details see The Multiple Indicators Cluster Survey 2006 and the National Child Labour Survey 2002–2003. For a general view on this issue, see ILO, Sub-regional Information System on Child Labour at <www.ilo.org>.
engagement in the application of labour-related regulations. While it provides some opportunities for labourers to use unions as their voice in consultations and bargaining, its lack of a substantive approach to unionisation, and restriction on civil society group engagement in workplace management, undermine its role in the labour-related regulatory scheme. Instead, the Code should include enabling mechanisms to facilitate the participation of workers and other stakeholders, both in defining the problems and in designing responses to them. If it is to rely upon such participation, it should have additional and alternative mechanisms for enabling labourers and other stakeholders to participate in consultations and lobbying (Smith, 2006: 711).

In summary, the Code was passed without full consultation among the tripartite partners and does not seem to uphold the core notions of ‘decent work’. It does not apply to many categories of workers, for example, domestic workers, managerial and administrative employees, and agricultural establishments with less than ten workers. Businesses without hired labour are also excluded from its ambit. The CEACR noted in its 2009 report that it ‘does not contain any improvements in relation to the previous legislation’ and even contains further restrictions that run against the notion of ‘decent work’.

The Code seemed promising its inception and received praise but it is now clear that it needs substantial revision. A tripartite seminar organised in 2009 resulted in a consensus that the Code should be revised in line with the principles of ‘decent work’. To this end, it should have suitable provisions for the promotion of corporate commitment to labour welfare, stakeholder engagement in labour regulation, and the monitoring of corporate self-regulation for labour welfare at the industry level. More specifically, the Code should:

1. cover all types of workers without any exception;
2. reconstitute the provisions to the Wage Board and other tripartite bodies. This should be on the basis of clear criteria in the selection of tripartite representatives and on their powers, functions and tenure;
3. recognise labourers and union representatives as members of the labour courts responsible for conducting proceedings or hearings in a non-technical manner;
4. spell out how organised and unorganised labourers can seek redress for various grievances in various forums – in the workplace, at the labour ministry or at the labour court.
5. remove any provision that bans any strike in any industry; remove the provisions describing the location of union offices and putting up barriers to union activities;
6. remove ambiguity related to the right of labourers to a weekly rest day, employment of child labour and the number of trade unions to be recognised in the workplace;
7. have provisions for labourers’ entitlements to certain benefits, including the right to file claims for separation benefits on resignation, compensation for work-related injury or accidents. These provisions should clearly describe timelines for the processing of workers’ claims based on fairness and equity;
8. provide full freedom to labourers in choosing their representatives and guarantee that they will not be harassed or dismissed due to their roles in unions. It should broadly narrate the right to form unions and remove the requirement of support from 30 per cent of labourers of an industry for registration of an union;
9. add strict provisions on the use of short-term workers. There should be specific provisions related with apprentices, casual labourers, temporary labourers, labourers on probation and so on. The provisions for apprentices should be for real learning purposes and not for employment at below minimum wages;
10. add provisions containing the principle of universality in the development and application of various social welfare and social protection schemes such as provident fund, group insurance and so on. It should clearly indicate that maternity leave should not be used as an excuse for

---

18 Bangladesh has ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No 144) and has a Tripartite Consultative Council as its highest tripartite body. The government, however, rarely follows the provisions of this convention or the recommendations of this committee. As mentioned earlier, the Code was passed without full consultation among the tripartite partners. For details, see Dunn and Mondal (2010: 12).
hiring only single or unmarried women on short-term basis. Provisions related to the estimation of overtime, calculation of wages for piece-rated workers should be revised; and
11. include detailed provisions for encouraging labourers to exercise their rights. This could take the form of a schedule of progressive (from light to heavy) penalties for employers who breach various labour standards or violate labour rights.

Impact of the Lack of ‘Decent Work’ Principles in the Code on Labour Regulation

Discussion of the impact of the Code on labour management in the ship-breaking yards and the recent labour unrest in the RMG industry of Bangladesh further demonstrates the problems created by the lack of the notion of ‘decent work’ in the Code. These two industries consume a good portion of Bangladesh’s total labour force (BGMEA, 2012; YPSA, 2012). Indeed, they have, as mentioned, become two of the largest industries in their field in the world due to the cheap and abundant supply of labour. At the same time, however, they exploit labourers the most. A discussion of how they are exploiting labourers and the role of this Code in managing this exploitation follows. I will do this by focusing on a case study of the RMG and ship-breaking industries.

Regulation of Ship-Breaking Yards

Ship-breaking is the process of dismantling an obsolete vessel for scrapping or disposal. This activity has not yet been declared an ‘industry’ in Bangladesh, although it is one of the biggest ship-breakers in the world. Since 1974, Bangladesh has had approximately 50 ship-breaking yards that have dismantled about 52 per cent of the end-of-life vessels above 200 DWT\(^\text{19}\) in the world (Hossain and Islam, 2006).

Ship-breaking activities in these yards offer both challenges and opportunities. They are the main source of iron in Bangladesh but also a source of environmental pollution in the coastal zone and an example of severe labour exploitation. These yards supply 25 per cent to 30 per cent of the country’s total yearly demand for steel (AFP, 2008). Between June 2007 and June 2008, they demolished one million tons of steel, although Bangladesh presently does not have the ability to buy this much steel (AFP, 2008). Simultaneously, the yards discharged thousands of tons of toxic substances, including asbestos, lead, waste oil, PCBs and so on, in beach, soil and seawater, seriously damaging coastal environments and biodiversity.

Ship-breaking activities are labour intensive, providing at least 30,000 jobs directly (Dao, 2008). The booming activity in Chittagong – Bangladesh’s port city – is mainly due to the laissez-faire climate of this long and flat intertidal coastal zone, the abundant supply of cheap labour, and slack environmental regulations. This industry has thus dramatically expanded at the cost of environmental degradation and severe labour exploitation. In recent years, the failure of yard managers to ensure a safe working environment has sparked serious questions regarding the industry’s overall governance. Hossain and Islam (2006) have shown, for example, that in the last 20 years, at least 400 workers have been killed and 6,000 severely injured in these yards. The situation is not improving. Rather, the number of fatal accidents and injuries continues to increase unabated. In just eight months of 2008, ten workers were killed (Dao, 2008),\(^\text{20}\) leading Karim (2009: 380) to describe the ship-breaking yards as ‘graveyards’ for workers. Civil society and media groups have brought this issue before the highest court of this country.

\(^{19}\) DWT (Deadweight Tonnage) refers to the carrying capacity of a ship. DWT can be measured by taking the weight of a ship that is not loaded with cargo and subtracting that measure from the weight of the loaded vessel.

\(^{20}\) There are no official statistics regarding human casualties in these yards. Instead, figures are taken from regular local media releases compiled by local NGOs. According to these sources, 500 people died during the last fifteen years, and 200 during the last five years, in both cases amounting to roughly 1,000 to 1,200 over the last three decades, assuming that the annual loss of life of ship breaking workers is more or less the same in each year. However, these figures do not cover workers who die as a result of chronic diseases due to exposure to toxic substance. For details, see Vardar et al, 2005.
In 2009, the High Court Division of the Supreme Court of Bangladesh gave detailed guidelines to the regulatory authority to ensure environmental conservation in this coastal zone and labour rights in the yards. It also directed the government to close all yards that lack clearance from Department of Environment of the government. The re-rolling mills and the workers who depend upon these yards are therefore at a crossroads. The absence of the notion of ‘decent work’ in the Code is an important reason for this situation. Other important reasons include weak regulatory strategies, ineffective implementation of regulations and lack of civil society initiatives, as well as irresponsible and short-sighted governance of the yards.

According to Section 100 of the Code, it is obligatory for the yard management to maintain a service role and service book for all workers, but they blatantly flout this requirement. Workers are never provided with appointment letters or identity cards, and management never maintains a workers’ register (Dao, 2008). Workers in this industry are also routinely deprived of legally prescribed entitlements such as death benefits, provident funds, insurance and benefits upon retrenchment. The Code stipulates, for example, that a fully disabled worker is entitled to receive US$1725.94, and a worker’s family is entitled to US$1380.76, as compensation from the employer. Unfortunately, the owners of the yards do not follow these provisions. The average of the amount they pay to the heirs of a local deceased worker is approximately US$690.38, which is not even half of the amount prescribed in the Code. For non-local workers (from a different part of the country) seriously injured in the yard, the average amount of compensation is only US$138 to US$207 (Young Power in Social Action, 2013; Vardar, 2005: 15-30), while the heirs of a non-local deceased worker get nothing at all from the yard owner. In fact, contractors rarely even pay the cost of returning the dead body to its home district (Young Power in Social Action, 2010; Varder, 2005: 15-30). By ignoring the specific amount of compensation mentioned in the Code, the owners are depriving the workers of their rights. This is an open secret, but the governmental agencies and civil society groups are rarely able to punish yard owners.

It has been observed, that in these yards ‘sixteen-hour shifts are usual; even 24-hour shifts are not uncommon. Workers are not given any weekly rest day with pay. Neither are those working on weekly rest days given any extra benefits apart from the wages earned’ (Karim, 2009: 386). Ship-breaking yard management exploits workers and violates its social and legal obligations. According to the Code, a worker cannot be required to work more than eight hours a day, although an adult worker can be allowed to work ten hours a day. Whatever the circumstances may be, Section 102 of the Code does not permit any worker to work more than 60 hours in any given week or to average more than 56 hours per week in any year. Moreover, according to Sections 104 and 108, every worker is entitled to enjoy one rest day every week, with normal payment and overtime payment at the rate of twice the average basic wage. He or she is entitled to casual leave with pay, earned leave and sick leave while on regular pay. Nonetheless, this industry adheres to none of these legal requirements. Rather, workers are treated on a ‘no work, no pay’ basis (Hossain et al, 2008). Owners of this industry are, as mentioned, reluctant to even pay the negligible compensation amounts fixed for workers’ deaths, let alone injuries.

Though there are specific provisions in this Code regarding health, safety and welfare measures for the workers, none of these are met by owners and managers of this industry. In Section 74, for example, it specifies that ‘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’. The management of the yards ignores these provisions; they are not interested in investing in proper equipment and, hence, compel workers to carry heavy iron plates. While the Code prohibits workers from entering any chamber, tank, vat, pipe, flue or other confined space in which deadly fumes are likely to be present, the yard owners lack plans to notify the workers of this risk. Again, while the Code requires owners to maintain effective plant and machinery enclosures and equipment to remove or prevent accumulation of gas, fumes or vapour, an ILO report found that the yards do not maintain proper fire-fighting equipment, and in cases where there are fire extinguishers, nobody knows how to operate them (Karim, 2009: 387).
Ship-breaking yard owners are not eager to implement the Code provisions to ensure the safety, health and welfare of the workers. The owners argue that they do not fall within the purview of the labour law, as their business operations have not been declared an ‘industry’, although Section 2(61) of the Code specifically classifies ship-breaking as ‘industrial work’ and the ship-breaking yards as ‘factory premises’. In Bangladesh Environmental Lawyer Association v. Bangladesh, 2009, the apex court of this country ordered the government to declare ship-breaking an industry but the government has not yet done so. It is dismaying indeed that, until 2005, none of the health and safety conditions of the 90 yards’ workers were ever examined by inspectors from the relevant governmental agencies responsible for checking working conditions in industries.

Despite the clear mandate for trade unionism by the Code, no trade union has ever been allowed in this industry. The industry owners and management knowingly exploit children in their yards. Certain non-governmental organisations found, for example, that 10 per cent of the total workers of this industry are under 12 years of age, nearly 20 per cent of the total workers are under 15 and almost 25 per cent are below 18 years of age (Dao, 2008). This situation is contrary to the recommendations of the ILO Worst Forms of Child Labour Convention. As a signatory to the ILO conventions and related documents, Bangladesh is liable to protect all children below 14 years of age from any ‘work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children’ (arts 2 and 3 of the Worst Forms of Child Labour Convention). There is a lack of action by the government of Bangladesh against the owners of these yards. The Ministry of Labour and Employment is the main governmental agency responsible for implementing the available laws for protecting the rights of workers in these yards. This Ministry is also the controlling authority of the Chief Inspector of Factories and Establishments and is responsible for upholding the international labour standards mentioned in the ILO legal instruments. Unfortunately, this agency, along with its associates, has long failed to achieve this objective in this industry (Basak, 2008).

The problem of maintaining a standard working environment is complex, and the Code does not contain adequate strategies to address it. Yard owners have taken advantage of this haphazard situation to maximise their returns. The yards are the main source of iron for Bangladesh and hundreds of re-rolling mills depend on them. Likewise, the construction sector of this developing country mostly depends on these re-rolling mills for iron and steel-made materials. They provide 100,000 to 200,000 indirect jobs (Dao, 2008), and most of the 30,000 direct workers of this industry come from the poorest agricultural sectors of this country. For all these reasons, while organisations such as Greenpeace and the Basel Action Network have been able to strictly control the global market in redundant vessels or in the ship-breaking yards of strong economies, the yard owners of Bangladesh continue plying their trade with little or no regulatory limits enforced (Cairns, 2007).

Against this backdrop, closing the yards is not the solution for poor working conditions and the exploitation of labour rights (Shakir, 2003) but the owners of these yards should no longer be able to maximise their returns at the cost of human lives. While Bangladesh has reasonable legislation and is subject to appropriate international obligations, these have simply not been applied to workers in the ship-breaking industry. This situation would be improved if the Code took a holistic approach to implementing decent work notions and thereby restricted employers from exploiting the vulnerabilities of a labour intensive and poor country.

---

22 Bangladesh Environmental Lawyer Association v. Bangladesh, represented by the Secretary, Ministry of Shipping and others (Order dated 5 March 2009 and 17 March 2009 by the High Court Division of the Supreme Court of Bangladesh).

23 Regarding the number of factory inspectors, there are contradictory views. For instance, a study conducted by PROGRESS (a joint program of the Ministry of Commerce of Bangladesh and the Federal Ministry of Economic Cooperation and Development of Germany) mentions that Bangladesh had only 53 factory inspectors for all sectors in 2007. Advocate AKM Nasim claims, however, that as at the middle of 2005, Bangladesh, in fact, had 86 inspectors under the Chief Inspectors of Factories and Establishments. For details of these studies, see Chowdhury and Denecke, 2007 and Nasim, 2008.

24 These inspectors are responsible for in 40,000 factories, 3,000,000 shops, 170 tea gardens, 90 ship-breaking yards, 2 dockyards and 150,000 transport organisations. In 2008, only 20 inspectors were available to inspect the hygiene and occupational health conditions in 24,229 registered factories in four divisions.
Labour Regulation and Unrest in the RMG Factories

The ready-made garments (RMG) industry is the only multi-billion-dollar manufacturing and export industry in Bangladesh. Bangladesh is, in fact, one of the chief RMG exporters worldwide and in 2009-10 it was the source of the most garments exported to the USA by any one country – worth as much as US$12.5 billion (BGMEA, 2011). From just 0.001 per cent of the country’s total export earnings in 1976, the RMG trade increased its share to approximately 80 per cent by 2012 (BGMEA, 2013). It has, in fact, grown by roughly 20 per cent per annum on average over the last two decades (BGMEA, 2013; Haider, 2007).

The RMG industry is divided into two major parts: knitting factories and weaving factories. Currently, there are more than 6525 factories, of which more than half employ a maximum of 400 employees each (BGMEA, 2011). The industry includes both formal and informal groups, and ownership is highly concentrated. Other than a few factories in the export-processing zones, almost all are locally-owned and situated in the capital city Dhaka, the port city Chittagong or the industrial city Narayanganj. Comparatively low labour costs are the main reason for the double-digit rates of expansion of this industry from year to year (Rahim, 2013). The RMG industry currently employs 4.7 million workers, of whom 78 per cent are female (BGMEA, 2013).

Labour turmoil in this industry is not new, and the reasons for it in 2006 and 2010 are similar in nature. A report by a government enquiry committee revealed that unrest in 2006 was due to (a) absence of a suitable working environment in RMG factories; (b) violations of minimum wage and financial benefit provisions by the factory owners; (c) irregular payments to the workers; (d) factory owners’ delaying tactics in paying compensation to injured workers and family members of workers who died while working in the factory; and (e) indecent behaviour by the management to workers. These conditions can be traced back in the findings of a benchmark field survey-based study in 2002. This revealed that 57.1 per cent of the employees who took part in the survey did not receive a minimum wage fixed by the government; 40 per cent of them commented that the wages for overtime were less than the regular wage; and 11 per cent of them did not get any extra payment for working more than eight hours (Centre for Policy Dialogue, 2002). These circumstances were echoed by the respondents from the civil society groups. Ninety per cent of them noted that the factory ‘owners have a long tradition of engaging the employees in work for extra hours under a very exploitative condition where the workers are underpaid in working hours and unpaid in the extra hours’ (Jabed and Rahman, 2003). This group of respondents added that the employers often do not provide any formal appointment letter to the workers (Jabed and Rahman, 2003). Regarding unionism, the study found that most employees thought that they would lose their job or be physically assaulted if they joined in trade union activities (Dialogue, 2002).

In their study, Khatun et al (2007) revealed that the working conditions and labour treatment in the RMG enterprises that are not in the Export Processing zones (EPZs) are worse than in the RMG enterprises in EPZs. For instance, none of the workers from their interview pool in the EPZ reported any accident due to poor electricity systems, whereas 4.6 per cent of workers in the non-EPZ enterprises and 16.7 per cent of workers in the subcontracting enterprises reported such accidents. In this study, all workers in subcontracting enterprises reported that emergency exits are generally kept locked. In the same study, 68.2 per cent reported that they were not given an identity card by the authorities (Khatun et al, 2007: 39). It further revealed that termination of workers is very common in subcontracting RMG enterprises. Sixty-six per cent workers remained uninformed about their lay-off from previous work places. Only 54 per cent of workers had received their salary during the first week of the month, while 2.5 per cent reported that they received their previous month’s salary more than three weeks after the due date.

In response the government enquiry committee suggested that provisions related to job security, regular payment of wages, revision and implementation of the minimum wages and workers’ health and safety at the factory premises be updated and made unambiguous (Hussain, 2007). An ILO-commissioned survey echoed the broader perspective of these suggestions. This survey concluded that the regulatory provisions should also contribute to improve the institutional capacity of the labour unions and owners’ associations to ‘deliver effective membership services and more transparent and responsible actions by the union leadership’ (Hussain, 2007). Unrest and
associated violence at that time also indicated that workers in this industry needed to be organised and practice systematic bargaining. Moreover, it indicated that the regulatory agencies should insist that the factory owners help workers obtain systematic collective bargaining agents.

The Code did resolve some drawbacks of the earlier labour laws related to this industry.\textsuperscript{25} For instance, in the Factory Act 1961 there was no clear mention of appointment letters or identification cards for workers. Before the Code, only the Newspaper Employees (Conditions of Services) Act 1974 and the Road Transport Workers Ordinance of 1983 had such a provision. The Code requires that employers provide this letter and card to all of their workers. Although the Code's range and effectiveness have increased, its lack of suitable implementation mechanisms for the notion of decent work has led to further incidents. For example, on 11 April 2005, the Spectrum and Shahriyar Sweater Factory collapsed, killing 64 workers and injuring at least 80 workers, of whom 54 were seriously wounded (Clean Clothes Campaign, 2010). The provisions mentioned in the Workmen's Compensation Act 1923, the Factory Act 1965 and the Factory Rules 1979 had been repealed, and it was expected that the family members of the deceased and injured workers would receive compensation but many are still waiting for compensation (Clean Clothes Campaign, 2010). On the one hand, the owners of these factories 'display...utter negligence to those without whom [they] could not have earned [millions of dollars]' (Islam, 2005). On the other hand, the ratio of workers killed while they are working in factory premises is increasing. Between the time of the Spectrum disaster and 2010, at least 172 workers were killed (Clean Clothes Campaign, 2010). Termination of workers without paying them their legal entitlements and shutting down factories without following the prescribed rules are also prevalent in this industry.

Agitation and casualties in the RMG industry have only increased since 2006. In one day alone in 2010, at least three workers were killed and hundreds injured while waiting in line to receive their wages, according to the Minimum Wage Board (Amnesty International, 2010; Rahman, 2010). Deciding on a lower wage limit for RMG workers is always contentious. To date, the Minimum Wage Board has increased the minimum wages of Bangladeshi RMG workers three times. In 1994, the minimum wage for this sector was US$13.29 per month, according to the Minimum Wage Ordinance 1994 (Majumder and Begum, 2000). Twelve years later, in June 2006, it was raised to US$23.74 (Hossain, 2010). In both cases, outraged workers protested against the wage limits, claiming they were too low to ensure even basic survival. At the peak of inflation during 2008, there was a proposal to give them rations at a subsidised rate, but this is yet to be implemented. They were also promised better working conditions and day care centres for mothers at the factory premises, but the owners did not carry out this promise either. Moreover, the owners of RMG factories have continuously shown a negative attitude toward trade unionism, and have not shown respect for the political rights mentioned in the Code. Government agencies are not efficient in responding to this issue either. Recently, the present labour and expatriate minister of this country stated that 'Trade unionism was never allowed to take root in Bangladesh due to the negative attitude of factory and mill owners' (Khan, 2010). At the same time, a writ petition filed by Bangladesh Legal Aid and Services Trust (BLAST), along with another human rights organisation, challenged the inaction of the government and its failure to establish labour tribunals and labour appellate tribunals in Export Processing Zones (EPZs) under Sections 55 and 59 of the EPZ Workers Association and Industrial Relations Act, 2004.\textsuperscript{26} While trade unions are not legally allowed in the EPZs, the failure of the government to ensure an effective forum for settling labour disputes is, in fact, a denial of access to justice of the workers in these zones.

By the beginning of 2009, the RMG sector began to bounce back from the effects of the global recession in 2008. It earned more than US$12.35 billion in 2008-09, exceeding the flow of overseas

\textsuperscript{25} Before the enactment of this Code in 2006, there were about 44 labour laws, dealing with four broad categories of labour issues: (a) wages and employment; (b) trade union and industrial disputes; (c) working environment and occupational health; and (d) labour administration and industrial relations. This Code has repealed all most all of these laws and consolidated all four issues within its ambit.

\textsuperscript{26} BLAST and others vs. Bangladesh and others (Writ Petition No 6448 of 2008). The court directed the government to show cause for their failure to give effect to Sections 55 and 59 of the EPZ Workers Association and Industrial Relations Act, 2004 and to establish a Labour Tribunal and Labour Appellate Tribunal in the EPZ by way of gazette notification. This petition is still pending.
remittances that amounted to US$10 billion in 2008 (BGMEA, 2011). However, working conditions in the factories have not improved (Baral, 2009).

In early 2010, workers demanded a rise in their wages, and the government eagerly acknowledged this demand. Action Aid calculated it at about US$150, and the labour union demanded at least US$75 but the owners association fiercely resisted this demand, offering only US$40. They argued that because of high bank interest rates, soaring yarn prices and low cutting and making charges, they were not in a position to offer more than US$40 for an entry-level worker. They blamed low-skilled and inefficient workers for an increase in production costs. This only further lowered the already low credibility of the owners of RMG factories. While a Bangladeshi RMG worker in 2009 received US$0.12, his or her counterpart in Sri Lanka, Pakistan, India and Vietnam received US$0.44, US$0.56, US$0.51 and US$0.40 respectively (Ahmed, 2010).

In this context, the rigid and uncompromising attitude of the owners has been much criticised. By the end of July 2010, the minimum wage at entry level was fixed at US$43.07, comprising US$27.57 in basic pay, US$11.03 in housing allowance and US$2.76 in medical allowance. The apprentice-level wage was fixed at US$34.47, or US$16.54. This new wage structure came into effect on 1 November 2010. It is, however, the lowest minimum wage in Bangladesh when compared with that of five other industrial sectors, and the lowest in the world.

In comparison, in Vietnam, workers are given cheap travel and housing allowances by the government. In China, local governments in urban areas typically operate housing funds by which the employer contributes an amount each month to assisting labourers buying, refurbishing, or renting a home. Labourers can remove this fund for retirement, a permanent move overseas, or in several other scenarios. From late 1998, most employers in Bangladesh are legally bound to participate in the national basic medical insurance system for labourers. In this system, employers contribute roughly six per cent of total staff payroll, and labourers contribute two per cent of their individual wages to a pooled insurance fund and employee personal expense accounts. Labourers’ contributions are placed in their own personal medical expense accounts. The employers’ contributions are split into two portions. Thirty per cent of the employers’ contributions are placed in the labourers’ personal medical expense accounts and the remaining 70 per cent goes to the pooled fund accounts (Jackson, 2011). Besides wages from employers, however, Bangladeshi labourers do not receive any extra facilities from either the government or employers.

Along with this extremely low wage level, dire working conditions have contributed to unrest in this industry. According to the Alternative Movement for Resource and Freedom Society, 72 incidents of unrest took place in the first six months of 2010, causing injuries to at least 988 workers and the arrest of 45 RMG workers (Clean Clothes Campaign, 2010). The unrest has only increased, as it has been found that one-fourth of RMG factories are not complying with the mandatory standard of pay (Clean Clothes Campaign, 2010).

Labour agitation in Bangladesh has received extensive negative media coverage across the world. Though it is perhaps premature to draw conclusions regarding the situation, such a disaster could perhaps have been avoided if a proper social responsibility in corporate governance ethos existed in the RMG sector. The owners and directors of these enterprises mostly consider only their own immediate profit and do not consider moral or ethical issues relevant to corporate management. Islam and Deegan (2008) have exemplified this attitude by referring to the notice circulated to the members of BGMEA mentioning that they should not use child labour in their factories due to the ‘potentially negative economic effects of being identified as using child labour, and the impacts this had on the survival of the industry’, ignoring the fact the child labour in factories is, in fact, illegal and morally wrong.

**Conclusion**

The ILO Declaration on Fundamental Principles and Rights at Work made it clear that ‘decent work’ is an important concept that should guide the development of a labour-friendly environment.

---

at the industry level. It promotes four themes: creating greater and equal opportunities for employment and income; promoting rights at work; ensuring social security, including a safe and healthy working environment for all; and promoting stakeholder participation in labour rights and liabilities-related decision making. This article has surveyed the impact of the absence of these objectives in the Code on the labour regulation in Bangladesh in general.

Before the Code was introduced, Bangladesh had almost 700 provisions related to labour issues in more than three dozen statutes. The Code was intended to address the inadequacies and inconsistencies of previous laws to meet the changing needs of globalisation. At the Code’s inception, it was observed that the effective implementation of its provisions could help the industry to meet most of the requirements of the international compliance practices related with labour.

In 2008, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) reviewed the provisions of the Code relating to remuneration and discrimination in workplace and found that there were not ‘appropriate steps … being taken to address the serious situation of women in employment and occupation’. This committee also highlighted the absence of the principles of ‘decent work’ in labour regulation in the RMG and ship-breaking industries and suggested that the notion of ‘decent work’ should be included in the Code. This has not happened. The rise of labour exploitation in some industries, chronic labour agitation, increased number of deaths of labourers in workplaces, and slow progress in lifting the living standards of labourers in Bangladesh in general mean that the Code and the framework for its implementation are in urgent need of review and reform.

References


28 Committee of Experts on the Application of Conventions and Recommendations (CEACR), 2008, 79th Session. Observations on the application of ILO convention 100 (Equal Remuneration Convention) and on the application of ILO Convention 111 (Discrimination, employment and occupation).


Khatun, F; Rahman, M; Bhattacharya, D; Moazzem, KG; and Shahrin, A (2007) Gender and Trade Liberalization in Bangladesh: The Case of the Ready-Made Garments. Dhaka: USAID.


**Legislation**

Bangladesh Labour Law 2006 (Bangladesh)
Factories Act 1881 (Bangladesh)
Workmen’s Compensation Act 1923 (Bangladesh)
Trade Unions Act 1926 (Bangladesh)
Trade Disputes Act 1929 (Bangladesh)
Payment of Wages Act 1936 (Bangladesh)
Maternity Benefit Act 1939 (Bangladesh)
Employment of Children Act 1938 (Bangladesh)

**Cases**

Bangladesh Environmental Lawyer Association v. Bangladesh, represented by the Secretary, Ministry of Shipping and others (Order dated 5 March 2009 and 17 March 2009 by the High Court Division of the Supreme Court of Bangladesh).

**Bangladesh Legal Aid and Services Trust (BLAST) and others vs. Bangladesh and others (Writ Petition No 6448 of 2008).**