

DOCTORAL DISSERTATION

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Title

**"Enhancing Labour Protection in the Ready-Made Garments Industry of
Bangladesh: A Legal Perspective and Economic Growth"**

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Acknowledgement

The research journey can be tough and emotionally challenging, especially when far from home and family. Throughout this journey, my family's unwavering support and encouragement have been extremely valuable. Their belief in me has been crucial to reaching this critical milestone. I want to thank them for their support. I also want to thank my supervisor, Dr. Henriett Nádasné Rab, whose support and guidance have been essential in shaping my thesis. I am also thankful to Dr. Márton Leó Zaccaria, the Secretary of the Doctoral School, for his responsiveness and collaboration in addressing our inquiries. I am grateful to the University of Debrecen for providing the platform to further my studies, which has been crucial in my academic advancement.

Declaration

I hereby declare that this thesis has been prepared under the auspices of the Doctoral Council of Marton Geze Doctoral School of Legal Studies at the University of Debrecen. The ideas, concepts, and written content within this thesis are a result of my original work. I have meticulously acknowledged and referenced all external sources, whether they are written materials or ideas, in accordance with established academic guidelines. I recognise the serious nature of plagiarism and its repercussions, and I affirm the integrity and authenticity of my work.

11 January 2025

candidate



Dewan Afrina Sultana

SUPERVISOR'S OPINION

Dewan Afrina Sultana:

**"Enhancing Labour Protection in the Ready-Made Garments Industry of Bangladesh:
A Legal Perspective and Economic Growth"**

Dewan Afrina Sultana started her doctoral studies in the 2019/20 academic year at the Marton Géza Doctoral School of Public and Legal Sciences of the University of Debrecen. From the beginning of her research, Afrina consistently aimed to analyse the special situation of those employed in the Ready-Made Garment (RMG) industry, which is also economically significant in the Bangladeshi labour market. To do this, she examined the specialities of the sector from many directions, analysed a lot of statistical data and presented the local regulations and the operation of the sector with OECD and mainly the ILO reports.

The title of her research is "Enhancing Labor Protection in the Ready-Made Garments Industry of Bangladesh: A Legal Perspective and Economic Growth." Considering the range of substantive questions related to the subject under investigation, the candidate has now delved into the specialised literature; during the preparation of the thesis, she has processed a number of relevant literature and her studies, which form the basis of her research, have been published in qualified domestic and foreign journals. The final content of the thesis, as well as its title, was developed based on the research carried out.

In the introductory chapter of the thesis, the candidate basically outlined the directions of her research, as well as her investigation methods, in which she managed to highlight the special point of view that resulted in differences in approach during the processing of the topic due to the peculiarities of her own country's different legal systems from European ones.

During the processing of international standards, the labour law institutions governing the fashion industry were investigated, with a clear focus on the fact that the ultimate aim of the research was the international legal compliance of the sectoral rules of Bangladeshi labour law. The variations in international legal regulations are addressed in the thesis, and the findings are also applied during the formulation of national labour law. The candidate's own point of view and legal conclusions appear in the thesis; the conclusion chapter is a summary of these.

The strength of the thesis is the empirical foundation, the analysis of data showing real operation, while I consider the thesis to be a shortcoming, in addition to the factual presentation and comparison of the legal regulations, the analysis of system-level roots and dogmatic foundations.

The candidate structured her thesis logically, structurally segmented (in some cases perhaps too segmented), proportionally structured, transparently, and clearly formulated the economic processes she presented. The thesis's reference system meets the requirements for doctoral theses. I was convinced of the candidate's proficiency in the topic and her professional depth during the preparation of the thesis and during the reading of the finished thesis.

Debrecen, 18/01/2025.



the candidate's supervisor

Dr. Nádásné dr. Rab Henr

Abstract

The doctoral dissertation titled **"Enhancing Labour Protection in the Ready-Made Garments Industry of Bangladesh: A Legal Perspective and Economic Growth"** is a comprehensive investigation into the global supply chain of the apparel manufacturing industry, with a particular focus on the Ready-Made Garment (RMG) industry in Bangladesh. Extensively examines the global supply chain of the apparel manufacturing industry, focusing on the Ready-Made Garments (RMG) industry in Bangladesh. The RMG industry significantly contributes to the Bangladesh economy, accounting for 80% of foreign exports and employing over 4 million workers in more than four thousand factories registered under the Bangladesh Garment Manufacturers and Exporters Association (BGMEA). Despite its economic benefits, the RMG industry is plagued by numerous labour rights violations, including inadequate wages, gender-based discrimination, and workplace harassment.

This thesis meticulously investigates the wage situation of RMG workers in Bangladesh and the differences in wages and working conditions between the Export Processing Zone (EPZ) and non-EPZ workers. It also evaluates the effectiveness of minimum wage fixing regulations in Bangladesh and their impact on improving the living conditions of RMG workers. Additionally, the study compares national legislation on minimum wage fixing methods with international standards to address the challenges faced by RMG workers in earning inadequate wages.

Furthermore, the research delves into gender-based discrimination in the industry and examines existing labour laws to identify gaps in protecting female workers from such discrimination compared to international standards. It also highlights the widespread global workplace harassment issues faced by RMG workers. It evaluates the effectiveness of current labour and national laws in addressing these issues, proposing specific suggestions for amending existing laws and introducing new legislation in line with international standards.

The research findings emphasise the need for immediate attention and action from all stakeholders to address gaps in national labour laws and provide adequate protection for RMG workers. The study's recommendations aim to achieve sustainable growth in the industry while ensuring fair wages and a safe working environment free from discrimination and harassment for RMG workers. This comprehensive and insightful work will serve as a valuable resource for individuals interested in the RMG industry in Bangladesh and labour law, including foreign buyers and consumers in the European market.

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Lists of Abbreviations

1. ALaRM - Apparel Industry Labour Rights Movement
2. BBS - Bangladesh Bureau of Statistics
3. BEPZA - Bangladesh Export Processing Zones Authority
4. BGMEA - Bangladesh Garment Manufacturers and Exporters Association
5. CBA - Collective Bargaining Agreement
6. CNCD - National Council for Combating Discrimination
7. CPD - Contextual Policy Development (commonly referred to)
8. DIFE - Department of Inspection for Factories and Establishments
9. EC - European Community
10. EPZ - Export Processing Zone
11. EU - European Union
12. FDI - Foreign Direct Investment
13. FGD - Focus Group Discussion
14. FWF - Fair Wear Foundation
15. GBD - Gender-Based Discrimination
16. GBV - Gender-Based Violence
17. GLWC - Global Living Wage Coalition
18. GSP - Generalized System of Preferences
19. HR - Human Resources
20. ILO - International Labour Organization
21. M&E - Monitoring and Evaluation
22. MOU - Memorandum of Understanding
23. MW - Minimum Wage
24. MWB - Minimum Wage Board
25. NAP - National Action Plan
26. NGO - Non-Governmental Organization
27. OSH - Occupational Safety and Health
28. PPE - Personal Protective Equipment
29. RMG - Ready-Made Garments
30. SDG - Sustainable Development Goals
31. SOP - Standard Operating Procedure
32. TCWA - Trade Union and Workers' Association

- 33. TFEU - Treaty on the Functioning of the European Union
- 34. UN - United Nations
- 35. USD - United States Dollar
- 36. WPR - Wage Payment Regulation
- 37. WRA - Women's Rights Advocacy
- 38. WTO - World Trade Organization

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- 12. Physical Abuse
- 13. Sexual Harassment

CHAPTER 1

Research Background and Development

1 Introduction

In today's fast-paced world, fashion and clothing play a significant role in shaping our individuality. Regardless of the cost, our attire contributes to our self-confidence and is essential to our daily experiences. The fashion industry facilitates the connection between fashion producers and consumers on a global scale. However, consumers in developed nations often lack awareness of the labour conditions of those responsible for manufacturing these items, particularly in underdeveloped and developing countries. This situation raises critical studies regarding their remuneration, working environment, and labour rights within the global supply chain, particularly in the fast fashion sector. Bangladesh is a prominent supplier of global ready-made garments in the global supply chain. As a native of Bangladesh, I have witnessed the profound impact of the Ready-Made Garments (RMG) industry on our country's economy and the numerous challenges faced by the workers within this sector. This has sparked a strong interest in me to explore the legal and economic aspects of labour protection in the RMG sector, aiming to foster positive change and sustainable economic development in Bangladesh.

Further, the prevailing labour unrest and unsafe working conditions in the RMG industry compel me to research and highlight the pressing challenges workers face in this sector. However, the list of labour rights is more extensive. I have chosen to focus on three specific issues: low wages, gender-based discrimination, and workplace harassment. These issues transcend national boundaries and are integral to the global discourse on labour rights and economic progress. The inadequacy of wages serves as a crucial factor contributing to various labour rights violations, particularly gender discrimination and harassment. Chapters 2, 3, and 4 illustrate the issues mentioned above, including legislative gaps and recommendations.

Moreover, Bangladesh's ineffective national labour laws provide insufficient protection as the country's labour law is comparatively new. Through my research, I aim to make meaningful contributions to enhancing labour laws and economic circumstances for RMG industry workers in Bangladesh, thereby enriching broader academic and policy dialogues in this domain.

From a global perspective, every worker should have equal opportunities and social protection and be free from workplace discrimination, which is of utmost importance as it upholds their

labour rights¹. It is integral to human rights, ensuring respect for human dignity and social justice². However, in practice, these rights are often violated by employers who fail to uphold standards such as providing a minimum wage and benefits, making timely wage payments, adhering to safety regulations, and ensuring non-discrimination³. This violation of labour rights is unacceptable and must be addressed through the continuous improvement of legislation and increased awareness among workers and employees of their rights and obligations⁴. Businesses and the government must also take responsibility for promoting social accountability to ensure that all workers enjoy fair and equal working conditions⁵. Enhancing labour protection is essential to the sustainable development of enterprises, particularly in labour-intensive sectors, such as Bangladesh's Ready-made Garments (RMG) industry. It is crucial to recognise that the protection of labour rights is an independent institution of labour law, encompassing various forms and methods of protection. Judicial protection is widely regarded as the most effective way to safeguard violated labour rights, as it helps restore and protect those rights⁶.

The Universal Declaration of Human Rights (UDHR), adopted in 1948, first acknowledged the global importance of safeguarding workers' rights. These rights included the prohibition of slavery, the entitlement to employment, the protection of fair and favourable working conditions, and the preservation of trade union rights⁷. Subsequently, the International Covenant on Economic, Social and Cultural Rights (ICESCR), enacted in 1966, also includes

¹ Yang, Y., 2022, March. The Human Rights of the Labour Workers in the MNES. In *2022 7th International Conference on Financial Innovation and Economic Development (ICFIED 2022)* (pp. 125-129). Atlantis Press.

² N., B., Kalkayeva. (2023). Legal mechanisms for protecting social and labour rights of citizens The study is funded by the Scientific Committee of the Ministry of Education and Science of the Republic of Kazakhstan (No. AP09259109 grant)). Калкаева, Н.Б., Молдахметова, Ж.Е., Абилмажина, А.М. and Тұрлыханқызы, Қ., 2023. АЗАМАТТАРДЫҢ ӘЛЕУМЕТТІК-ЕҢБЕК ҚҰҚЫҚТАРЫН ҚОРҒАУДЫҢ ҚҰҚЫҚТЫҚ ТЕТІКТЕРІ. *Journal of Actual Problems of Jurisprudence/Habarşy. Zaң Seriâsy*, 106(2).10.26577/JAPJ.2023.v106.i2.09

³ Князева, Н., & Knyazeva, N. (2016). Labours' Right Protection of the Groups of Workers. *Journal of Russian Law*, 4(11), 0. doi.org/10.12737/22200

⁴ O'Brien, R. (2023). *Labor Routledge eBooks*, Informa, pp.393–406. doi.org/10.4324/9781003266365-34.

⁵ N. B. Kalkayeva. (2023). Legal mechanisms for protecting social and labor rights of citizens The study is funded by the Scientific Committee of the Ministry of Education and Science of the Republic of Kazakhstan (No. AP09259109 grant)). Калкаева, Н.Б., Молдахметова, Ж.Е., Абилмажина, А.М. and Тұрлыханқызы, Қ., 2023. АЗАМАТТАРДЫҢ ӘЛЕУМЕТТІК-ЕҢБЕК ҚҰҚЫҚТАРЫН ҚОРҒАУДЫҢ ҚҰҚЫҚТЫҚ ТЕТІКТЕРІ. *Journal of Actual Problems of Jurisprudence/Habarşy. Zaң Seriâsy*, 106(2). 10.26577/JAPJ.2023.v106.i2.09

⁶ Tetiana, L., Syroid., Lina, O., Fomina., Pavlo, Fomin. (2022). Protection of labour rights of employees of international intergovernmental organizations: theory and practice. *Analitično-porivnâl'ne pravoznavstvo*, doi: 10.24144/2788-6018.2022.05.82

⁷ Universal Declaration of Human Rights (1948), Articles 4,23 and 24. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

comparable labour rights, such as the right to work, fair and equal wages, and the right to form and join a trade union.⁸

In addition, the International Labour Organisation (ILO) was established in 1919 to promote workers' rights and enhance working conditions worldwide. The ILO Declaration, rooted in fundamental rights, seeks to prevent further decline in labour standards and promote social justice. The organisation's primary goal is to establish international standards and norms to enhance labour conditions worldwide, acknowledging that the absence of humane conditions might obstruct other nations' endeavours to improve conditions inside their own country.⁹ The ILO is responsible for setting and applying these standards for the purpose of protecting trade. The conventions encourage member countries to update their labour rights mechanisms and initiatives, motivating non-ratifying countries to join.¹⁰

The world of work has undergone significant changes for various reasons. One of the significant causes is globalisation, a global trend that involves the liberalisation of trade, the expansion of foreign direct investment (FDI), and large cross-border financial flows. It has both positive and negative effects. On the one hand, it increases efficiency, innovation, and consumer choice. On the other hand, it has a negative impact on the labour market, leading to labour rights violations such as job losses, wage inadequacy, income inequality, discrimination, and financial crises.¹¹

Globalisation leads to the spread of global supply chains. It is an interconnected network of global organisations, suppliers, and manufacturers that produce and distribute goods and services¹². The global apparel or ready-made garment (RMG) industry is the most dynamic and complex example of the global supply chain. It encompasses brands and retailers in the Western world, as well as the consumer market and product production in many developing Asian

⁸ International Covenant on Economic, Social and Cultural Rights (1966), Article 6, 7 and 8. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

⁹ Chowdhury, M.S., 2017. compliance With core international Labor standards in National Jurisdiction: evidence from bangladesh. *Labor Law Journal*, 68(1), p.78.

¹⁰ UDDIN, M., Islam, M.Z. and Uddin, M.S., 2022. The implementation of the core international labour rights regime in Bangladesh garments industries and its challenges. *Journal of Asian and African Social Science and Humanities*, 8(3), pp.42-54.

¹¹ Hendrickx, F., Marx, A., Rayp, G. and Wouters, J., 2016. The architecture of global labour governance. *International Labour Review*, 155(3), pp.339-355.

¹² Gilbert, Dirk Ulrich and Huber, Kristin, Labour Rights in Global Supply Chains (December 10, 2022). Rasche, Andreas/Morsing, Mette/Moon, Jeremy/Kourula, Arno (Eds.): Corporate Responsibility, Second Edition, Cambridge University Press, 2023, Chapter 18 pp. 451-472, Available at SSRN: <https://ssrn.com/abstract=3517235> or <http://dx.doi.org/10.2139/ssrn.3517235>

countries. Outsourcing products to countries with lower labour costs and weak labour laws often leads to violations of labour rights.

In this supply chain, Bangladesh plays a vital role in the production of garments. Bangladesh is the world's second-largest garment exporter after China. However, the working conditions in the country's RMG industry have been a matter of concern for various reasons. The sector often faces labour unrest because of low wages and long working hours, contributing to job dissatisfaction among workers. Other factors include arrears of salary, deprivation of benefits and bonuses, lack of work motivation, and a lack of a safe working environment.¹³ Furthermore, most workers in the garment sector are women, and they face additional challenges and discrimination due to their gender and apprehension of sexual harassment.¹⁴

To ensure the protection of workers' rights, it is essential to address these issues and strive towards creating a working environment that is fair, equitable, and secure for all. This involves formulating and enforcing strong labour laws and regulations within Bangladesh,^{as} labour law is a significant component of labour rights protection. It also involves creating awareness and monitoring supply chains to ensure compliance with international labour standards, preventing exploitation, and promoting sustainable economic growth.

The study will examine the history of the global and Bangladeshi apparel industry. It will evaluate the extent to which the Bangladesh Labour Acts comply with international standards established by the ILO. Additionally, it will explore how the gap in implementation and inadequacies in national labour laws have impacted the rights of RMG workers mentioned above.

2 Research Questions

This research aims to answer several questions, with a primary focus on addressing the question that forms the basis of the study.

“How can Bangladesh benefit from complying with International labour standards to improve labour law, protect RMG workers, and promote economic growth”?

¹³ Choudhury, S. and Rahman, M. H. (2017) “Labor Unrest in the Ready-Made Garment Industry of Bangladesh: Causes and Consequences”, *European Scientific Journal, ESJ*, 13(34), p. 87. <https://doi.org/10.19044/esj.2017.v13n34p87>

¹⁴ Solaiman, S.M. (2013). Unprecedented Factory Fire of Tazreen Fashions in Bangladesh: Revisiting Bangladeshi Labor Laws in Light of Their Equivalents in Australia. *Hofstra Labor & Employment Law Journal*, [online] 31(1). Available at: <https://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=1567&context=hlelj>.

Further research associate questions will be as follows.

How will the reform and implementation of minimum wage regulation ensure equitable wages for RMG workers?

How can reforming Bangladesh's labour laws on gender-based discrimination safeguard female workers in the RMG sector?

In what ways will the integration of workplace harassment protection laws into national regulations, aligned with international standards, create a safer working environment for female RMG employees?

3 Objectives of the study

The research aims to conduct a comprehensive analysis of Bangladesh's national labour laws in comparison to international standards, with a specific focus on the Ready-Made Garments industry (RMG). The primary objective is to develop detailed policy recommendations that prioritise the protection and empowerment of workers, particularly women, within the RMG industry. To achieve the research objective, the study will investigate the historical context of labour laws in Bangladesh, meticulously examining their alignment with international labour standards and critically evaluating their practical implementation within the RMG industry. Furthermore, the study will incorporate an in-depth analysis of previous research, case studies, and interviews of workers, providing invaluable real-world insights into the actual impact of these laws. Additionally, it aims to identify the obstacles to implementing the laws and explore ways to overcome the violation of labour rights among this group of workers. By adopting this approach, the study aims to promote a fairer and more supportive atmosphere for all workers in the RMG industry.

4 Research Limitations

Limitations are a common factor when preparing a thesis paper on an issue related to legislative bodies, international influencing organisations, implementing organisations, and, above all, the country's economic condition. Therefore, maintaining the quality and effectiveness of the thesis was challenging.

Time Constraints:

Time constraints and the pandemic at the beginning of research posed a significant challenge, making it unfeasible to conduct interviews with workers, gather opinions from employers, and understand the future perspectives of legislative bodies. This led to a reliance on secondary

data sources, potentially limiting the depth and richness of the data compared to primary sources.

Availability of Data:

The availability of data posed a limitation, as it is essential to collect primary data to provide readers with valuable insights and considerations when creating laws. However, secondary data sources are not as comprehensive or specific, especially since Bangladesh labour laws are still evolving. This makes it challenging to draw well-founded conclusions.

Methodological Limitations:

The methodological limitations encountered during the thesis paper development highlighted the importance of a systematic approach. Although most steps were executed properly, formulating a questionnaire to gather data and opinions related to the paper's title was a specific limitation. This limitation underscored the significance of a well-structured and comprehensive methodology for conducting research and gathering relevant information.

Language Limitations:

One of the challenges I encountered when working on a thesis was using academic language. It is crucial to effectively utilise academic language to logically present ideas, findings, and recommendations based on the available data. The difficulty in articulating ideas and arguments logically throughout the thesis stemmed from the limitations in accessing official English translations of new labour laws.

5 Methodology

This study is comprehensive and thoughtful. I examined the issue from various angles, using methods from different fields such as law and economics. The goal was to find a comprehensive outcome by analysing legislation that works for everyone involved. Legal matters have far-reaching impacts on areas such as politics, society, the economy, and institutions; therefore, it is important to approach them from different perspectives. Another critical aspect of the study is the utilisation of existing data from various sources, including international laws, scholarly works, and statistics. The study's originality lies in how researchers use and analyse this data.

The study was conducted using a mixed methodology that combined qualitative and quantitative approaches to explore the development of law and the economy, specifically the working conditions and labour rights violations of RMG (Ready-Made Garment) workers. The initial phase involved gathering data from various secondary sources such as previous research,

scholarly articles, and reports from international organisations and NGOs, including Fare Ware Foundation (FWF), Better Work (BW), Manusher Jono Foundation (MJF), Action Aid, Kormojibi Nari (KN), Clean Clothing Campaign (CCC), and newspaper articles. This data collection aimed to provide insights into the working conditions and labour rights violations of RMG workers. In addition to the secondary data, the study analysed national labour laws, ILO standards, and the Universal Declaration, utilising a comparative method to address the research question. Furthermore, primary data was collected by surveying one hundred female workers from five factories in Dhaka city's Badda area. The survey included semi-structured questions related to workplace discrimination and facility-related issues. These workers were interviewed during their training sessions with the assistance of the Bangladesh Center for Workers' Solidarity (BCSW), an organisation dedicated to advocating for the rights of RMG workers. The survey was conducted from September to October 2021, and approximately 1,400 to 1,500 workers from the five factories were interviewed, with over 60 percent of them being female workers. Due to the constraints posed by the COVID-19 pandemic and limited capacity, twenty groups of individuals were selected from each factory for the interview.

6 Labour Rights Crisis in Bangladesh RMG Industry

The Ready-Made Garment (RMG) sector in Bangladesh has been a significant contributor to the country's economy and society. This industry has provided employment opportunities for an estimated 4 million individuals, including young, impoverished, and illiterate women. Despite the industry's progress, labour practices and rights violations remain a persistent concern.¹⁵ The RMG sector has undergone significant advancement in the global supply chain since the 1990s, primarily due to the abundance of low-cost labour. These workers have proven dependable, flexible, and receptive to training.¹⁶

Bangladesh has faced severe violations of workers' labour rights during the Multi Fibre Agreement (MFA) and since gaining quota-free access to foreign markets in 2005¹⁷. The RMG industry in Bangladesh is plagued with long working hours, excessive overtime, and illegal pay

¹⁵Chowdhury, M.S., 2017. compliance with core international Labor standards in National Jurisdiction: evidence from Bangladesh. *Labor Law Journal*, 68(1), p.78.

¹⁶ Dean. S (2001). The WTO, ATC and Textiles and Clothing in a Global Perspective: What's in it for Bangladesh? | CPD. [online] *Centre for Policy Dialogue (CPD)*. Available at: <https://cpd.org.bd/publication/the-wto-atc-and-textiles-and-clothing-in-a-global-perspective/> .

¹⁷ Bhattacharya, D. and Rahman, M., 2000, January. Bangladesh's apparel sector: Growth trends and the post-MFA challenges. In *Proceedings of a national seminar on the Growth of the Garment Industry in Bangladesh: Economic and Social Dimensions*, BIDS and Oxfam Bangladesh, Dhaka.

deductions, which are common violations.¹⁸ Workers also face issues like informal recruitment, wage discrimination, irregular payment, and short-term service contracts¹⁹. Since a majority of the workforce is women, they suffer from discrimination in terms of maternity benefits and promotions and are subjected to harassment²⁰. Workers also face unsafe working conditions, closed environments²¹, and a lack of basic facilities such as a canteen, lunchrooms, clean drinking water, and separate toilets for female workers²². These are significant concerns regarding labour unrest in the RMG industry in Bangladesh. As a result, workers in this sector have engaged in disputes and violent protests, resulting in disruptions to the production process²³. In 2006, a major labour movement took place, aiming to demand a higher minimum wage, weekly holiday overtime pay, and public holidays, as well as to protest against repression. Unfortunately, during the protest, three individuals lost their lives, more than 3,000 were injured, and several thousand were imprisoned.²⁴

Later, in 2010, the industry experienced widespread unrest, marked by five significant incidents. For instance, on January 11th, 40 workers were injured during a violent demonstration. On April 28th, workers again became aggressive, demanding a wage increase from US\$25 to US\$70 per month. This incident affected more than 22 RMG factories and resulted in 30 injuries and additional casualties.²⁵

Workplace safety has been a significant concern in the Bangladesh RMG industry, along with labour rights violations and oppressive situations. On November 24, 2012, a fire broke out at the Tazreen Fashions factory in Bangladesh, resulting in the death of 112 workers and injuries to over 200 others. The incident unveiled the unsafe working conditions of Bangladesh

¹⁸ Kaniz Marium Akter, Subrata Banik. Factors Affecting the Quality of Working Life: An Enquiry into the RMG Industry of Bangladesh. *Journal of Human Resource Management*. Vol. 6, No. 1, 2018, pp. 26-36. <https://doi.org/10.11648/j.jhrm.20180601.14>.

¹⁹ Chowdhury, M., Ahmed, R. and Yasmin, M., 2014. Prospects and Problems of RMG Industry: A study on Bangladesh. *Research Journal of Finance and Accounting* Vol 5, pp.103-118. ISSN 2222-2847 (Online)

²⁰ Rock, M. (2001). Globalisation and Bangladesh: The case of export-oriented garment manufacture. *South Asia: Journal of South Asian Studies*, 24(1), 201–225. <https://doi.org/10.1080/00856400108723430>

²¹ Rakib, M.A. and Adnan, A. (2015) Challenges of Ready-Made Garments Sector in Bangladesh: Ways to Overcome. *BUFT Journal*, Vol 3. pp77-90

²² Morshed, M.M. (2007). *A study on labour rights implementation in readymade garment (RMG) industry in Bangladesh: Bridging the gap between theory and practice*. [online] *University of Wollongong Thesis Collection 1954-2016*. Available at: <https://ro.uow.edu.au/theses/40/>.

²³ Hossan, C.G., Sarker, M.A.R. and Afroze, R., 2012. Recent unrest in the RMG sector of Bangladesh: is this an outcome of poor labour practices?. *International Journal of Business and Management*, 7(3), p.206.

²⁴ Akter, P. (2020). An Overview of the Ready-made Garment (RMG) Sector of Bangladesh: From Origin to the Current State of Pinnacle. *Kyushu Daigaku Daigakuin Keizaigakukai*, 167(167), pp.1–18. Doi: <https://doi.org/10.15017/4067129>.

²⁵ Islam, M.S. and Ahmad, S. (2010). Contemplating sustainable solutions to garments sector unrest. *The Daily Star*. [online] 10 Jul. Available at: <https://www.thedailystar.net/news-detail-146098> [Accessed 12 Jun. 2024].

workers. A short circuit caused the fire due to poor-quality electrical wiring, and the workers were unable to escape because there were no proper fire exits²⁶. In Bangladesh, from 1990 to 2012, at least 1,000 workers were killed and 3,000 injured in garment factory incidents, with no punishment for those responsible.²⁷ Soon after the Tazrin Fashion incident in April 2013, the Rana Plaza incident caused the collapse of a building in Bangladesh that housed five garment factories, resulting in the death of 1,129 workers, adding more number to the death toll of the garment workers, which grabbed global attention²⁸. The non-implementation of the Bangladesh Labour Act (BLA) 2006 and non-compliance with the ILO conventions and standards in the RMG sector are the leading causes of labour unrest and labour rights violations.²⁹

Notably, workers in the Export Processing Zones (EPZ) are not protected by BLA 2006. These workers face various challenges, including low wages, restrictions on forming trade unions, and a lack of freedom of association. Additionally, women also face discrimination and harassment due to the absence of strong labour regulations, and two different legislations for the same industry workers create discrimination between workers.

7 Global apparel industry

The global apparel industry, also known as the Ready-Made Garment (RMG) industry, is a vital contributor to the world's economy, valued at approximately USD 1.53 trillion and providing employment to over 430 million people worldwide.³⁰ Over time, this industry has undergone significant changes, becoming increasingly complicated and advanced. The invention of the sewing machine in the late 1840s facilitated mass clothing production, leading to the industry's growth³¹. The Civil War further enhanced the industry by creating a demand for uniforms and necessitating the development of standardised sizes to cater to a broader market. The factory system brought workers together, enabling continuous production operations and producing

²⁶ Case study: Tazreen fashions (Bangladesh) (2017) Worker-Driven Social Responsibility Network. Available at: <https://wsr-network.org/what-is-wsr/csr-and-msis/csr-case-study-tazreen-fashions-bangladesh/> (Accessed:04 February 2020).

²⁷ Solaiman, S. M. (2013) "Unprecedented Factory Fire of Tazreen Fashions in Bangladesh: Revisiting Bangladeshi Labor Laws in Light of Their Equivalents in Australia," *Hofstra Labor & Employment Law Journal*: Vol.31 Iss. 1 Art 3. Available at: <https://scholarlycommons.law.hofstra.edu/hlelj/vol31/iss1/3>.

²⁸ ibid

²⁹ Hossan, C.G., Rahman Sarker, Md.A. and Afroze, R. (2012). Recent Unrest in the RMG Sector of Bangladesh: Is This an Outcome of Poor Labour Practices? *International Journal of Business and Management*, 7(3). <https://doi.org/10.5539/ijbm.v7n3p206>.

³⁰ Marshall, D. (2023). The history of the apparel industry: Industrial Revolution to now. *immago*. Available at: <https://immago.com/the-history-of-the-apparel-industry> / [Accessed 24 Aug. 2023].

³¹ Soyer, D. (1999). Garment Sweatshops, Then and Now. *New Labor Forum*, [online] (4), pp.35–46. Available at: <http://www.jstor.org/stable/40342222>

affordable garments in larger quantities. While the Industrial Revolution created job opportunities and provided stable employment and wages, it also introduced harsh working conditions, including 'Sweatshop' conditions characterised by long working hours, low wages, and unsafe working environments, where employers exploited their employees.³²

Sweatshops originated in the 19th century as industrialisation began in the United States and Europe. In the 20th century, sweatshop conditions became a significant concern in the United States and Europe, as the industry hired marginalised groups such as immigrants, women, and children. These workers were compelled to work for extended hours, received low wages, and were exposed to hazardous working environments.³³

Over time, labour movements and trade unions played a vital role in advocating for better working conditions and workers' rights in the RMG industry. As a result of these movements, manufacturers faced heightened labour costs and increased demands for improved worker treatment. Responding to these challenges, some manufacturers relocated their operations to regions with more tranquil labour regulations and lower labour costs.³⁴

The relocation of garment manufacturing has resulted in a complex supply chain spanning developed and developing countries. With the European Union (EU) and the USA being home to some of the world's largest and most renowned apparel companies, they import a significant amount of clothing. Many companies have established manufacturing units in developing countries like China, Bangladesh, and Pakistan to meet demand or purchase products directly from factories in these nations. As a result, these developing countries have transitioned into becoming exporters of ready-made garments.³⁵

The phenomenon of globalisation has brought significant advantages to all the fashion industry stakeholders. The Western market, consumers in particular, has benefited from the availability of an extensive range of fashion trends sold by large-scale retailers with the capacity to provide a steady supply of products at reasonable prices. The increase in the consumer base has contributed to the growth of the industry's economy.³⁶

³² Powell, B. (2014). Meet the Old Sweatshops: Same as the New. *The Independent Review*, vol 19, no.1 pp109-122. *Social Science Research Network*.

³³ Marshall, D. (2023). The history of the apparel industry: Industrial Revolution to now. *immago*. Available at: <https://immago.com/the-history-of-the-apparel-industry/> [Accessed 24 Aug. 2023].

³⁴ Powell, B. (2014). Meet the Old Sweatshops: Same as the New. *The Independent Review*, vol 19, no.1 pp109-122. *Social Science Research Network*.

³⁵ Marshall, D. (2023). The history of the apparel industry: Industrial Revolution to now. *immago*. Available at: <https://immago.com/the-history-of-the-apparel-industry/> [Accessed 24 Aug. 2023].

³⁶ Ledezma, V. (2017). Globalization and Fashion: Too Fast, Too Furious. *Laurier Undergraduate Journal of the Arts*, [online] 4(9). Available at: <https://scholars.wlu.ca/cgi/viewcontent.cgi?article=1052&context=luja>.

Additionally, brands and manufacturers can reap the rewards of reduced labour and production expenses due to currency disparities between developed and developing nations, resulting in higher profit margins. Furthermore, the abundance of available cheap labour accelerates the production process. In developing countries, it helps industrialisation and creates job opportunities for billions of under-educated populations, especially women.³⁷

8 Evolution of Bangladesh RMG industry

The globalisation and relocation of garment manufacturers opened the door to employment opportunities for millions of workers and economic development in Bangladesh. The first RMG industry dates back to the early 1970s, when the first ready-made garment (RMG) company, Reaz Garments, was established in Dhaka as a small tailoring shop called Reaz Store. For the initial 15 years, the company only operated within the domestic market. However, in 1973, it changed its name to M/s Reaz Garments Ltd. and started exporting to foreign countries.³⁸

Later, in partnership with *Daewoo*, a South Korean company, *Desh* Garments established Bangladesh's first joint-venture garment factory in 1977 and commenced production in the early 1980s. During the 1980s, a local enterprise named *Trexim Ltd* partnered with *Youngone Bangladesh* and established the country's first garment factory. Over the next decade, from the 1980s to the 1990s, the RMG industry in Bangladesh experienced significant growth.³⁹ When the Bangladesh government authorised the duty-free import of clothing machinery, it boosted the country's garment manufacturing industry and exports. Afterwards, the number of factories increased significantly over time. The number of factories rose from 134 in 1983-84 to 632 in 1984-85; by 1999, it had reached 2900⁴⁰.

Bangladesh's economic liberalisation, privatisation, and investor incentives have attracted significant Foreign Direct Investment (FDI) levels. The government created the Export Processing Zone (EPZ) in 1983 in Chittagong to attract more FDI, and a second EPZ was set

³⁷ Fernandez-Stark, K. Frederick. S. and Gereffi. G. (2011). *The Apparel Global Value Chain: Economic Upgrading and Workforce Development*. [online] Duke Center on Globalization, Governance & Competitiveness (Duke CGGC) and RTI International. Available at: doi: 10.13140/RG.2.1.4327.7284.

³⁸ Monir Hossen, M. and Miazee, Md.H. (2016). Industrial Disputes at Ready Made Garments in Bangladesh: An Analysis. *International Journal of Business and Economics Research*, 5(6), p.210.10.11648/j.ijber.20160506.14

³⁹ Rahman, M., Muzib, S. and Chaity, R. (2018). READY-MADE GARMENTS OF BANGLADESH: AN OVERVIEW. *Barishal University Journal Part*, [online] 1(1&2), pp.59–122. Available at: <https://bu.ac.bd/uploads/BUJ1V5I12/5.%20M%20Hasinur%20Rahman.pdf> [Accessed 15 Nov. 2023].

⁴⁰ Islam, M. (2021). *Bangladesh RMG Industry's Robust Growth and Challenges*. [online] Business Inspection BD. Available at: <https://businessinspection.com.bd/rmg-industry-of-Bangladesh> [Accessed 25 Feb. 2023].

up in Savar near the capital city of Dhaka in 1993. As a result, the country has become a significant manufacturing hub in the developing world, particularly in the RMG sector. To create and manage Export Processing Zones (EPZs) in Bangladesh, the government established the Bangladesh Export Processing Zones Authority (BEPZA) in 1980. Bangladesh's total exports from 456 operational enterprises in 8 EPZs reached \$96 billion, with 5,02,365 employees as of June 2022⁴¹. Two-thirds of workers in these EPZs are employed in garment production.⁴²

Bangladesh's RMG industry has been the country's primary export sector for 30 years, accounting for 80% of export earnings. Between 2022 and 2023, Bangladesh generated \$55.55 billion in exports, primarily driven by the export of RMG products. The RMG industry is the highest contributor to total export earnings, \$46.99 billion, or 84.58% of total exports.⁴³

Along with being a significant contributor to export earnings, the RMG sector also provided jobs to 4.1 million people in 4,600 plus factories, according to the Bangladesh Garment Manufacturers and Exporters Association (BGMEA). Women make up 80% of the workforce in this industry, and the United States (US), the United Kingdom (UK), and the European Union (EU) are the major importers of RMG products. Bangladesh is the second-largest exporter of garments in the world after China. Although it lost its top position to Vietnam in 2020, it regained it by exporting \$35.81 billion, while Vietnam exported \$32.75 billion in 2021⁴⁴. Bangladesh's Ready-Made Garments (RMG) industry has a competitive advantage due to its low labour costs and high returns on foreign investment in the Export Processing Zones (EPZ).⁴⁵

9 Development of Bangladesh Labour Law

It is worth noting that the labour law system in Bangladesh has a long history, dating back over a century. The earliest legislation regarding labour laws was enacted during the British colonial

⁴¹ www.bepza.gov.bd. (2022). *BEPZA registers record growth in export, investment and employment in FY 2021-22*. [online] Available at: <https://www.bepza.gov.bd/recent-activities/bepza-registers-record-growth-in-export-investment-and-employment-in-fy-2021-22> [Accessed 5 February. 2023].

⁴² Export processing zone workers see over 50% hike in minimum wage. (2023). <https://asianews.network>. [online] 11 Dec. Available at: <https://asianews.network/export-processing-zone-workers-see-over-50-hike-in-minimum-wage/>. [Accessed 12 Jun. 2024].

⁴³ The Financial Express. (2023). *Exports from vast sectors save RMG stagnate*. [online] Available at: <https://thefinancialexpress.com.bd/economy/exports-from-vast-sectors-save-rmg-stagnate>. [Accessed 13 Aug. 2023].

⁴⁴ Bangladesh RMG export exceeds Vietnam again. (2022). *Textile Today*. [online] 13 Dec. Available at: <https://www.textiletoday.com.bd/bangladesh-rmg-export-exceeds-vietnam> [Accessed 21 Apr. 2023].

⁴⁵ Ashik-Uz-Zaman, S. and Abdul Mannan Khan, M. (2021). Minimum Wage Impact on RMG Sector of Bangladesh: Prospects, Opportunities and Challenges of New Payout Structure. *International Journal of Business and Economics Research*, 10(1), p.8. <https://doi.org/10.11648/j.ijber.20211001.12>

period in the Indian subcontinent, specifically in 1881. Several significant labour laws were established during the British period, including the Factory 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)⁴⁶. Following the partition of the Indian subcontinent in 1947, most of these laws were retained with some modifications and amendments, and the government of Pakistan has implemented them as administrative rules.⁴⁷

After its independence in 1971, the government of Bangladesh (GoB) retained the previous laws through the Bangladesh Laws Order (President's Order No. 48). Later, the National Labour Law Commission was established in 1992 to reform and modernise industrial relations in Bangladesh. The commission developed a Draft Labour Code in 1994⁴⁸.

Furthermore, Bangladesh responded to the evolving demands of the working class by introducing a revised Bangladesh Labour Act (BLA) on 11 October 2006. It consolidates and updates 25 separate acts into one comprehensive piece of legislation⁴⁹.

The BLA 2006 is an all-encompassing legislation that applies to the entire country and the working class. This Act encompasses various aspects of labour management, including compensation, employment terms, workplace safety and security, trade unions, labour-management relations, and social laws. It is of great significance for the country's workforce. The social rules outlined in the Act, such as minimum wage regulations, maternity benefits, compensation for work-related accidents, and profit-sharing arrangements, aim to protect the working class's rights and define their workplace responsibilities. The primary objective of these legal instruments is to make a safe and equitable work environment that safeguards the interests of both employers and employees alike.

Moreover, to supplement the BLA 2006, the government introduced the Bangladesh Labour Rule (BLR) in 2015. Since the introduction of the BAL in 2006, it has been amended thrice: in 2013, 2018, and November 2023. On 1st September 2022, the BLR (2015) was amended.

⁴⁶ Begum, N. (2016). *Maintenance of health and safety of women garment workers: a study of South East Textile (Pvt.) Limited*. [online] *dspace.bracu.ac.bd*. Available at: <https://dspace.bracu.ac.bd/xmlui/handle/10361/6518> [Accessed 13 Jun. 2022].

⁴⁷ Rahman, M., Ullah, M., Ali, A. and Phil, M. (2003). *LABOUR LAW RESEARCH FOR BANGLADESH* - . [online] Oxfam BD. Available at: <https://www.hdrc-bd.com/wp-content/uploads/2018/12/0.-Research-for-the-Labour-Wedge-of-the-OI-Trade-Campaign-Labour-Law-Research-for-Bangladesh.pdf> [Accessed 13 Mar. 2023].

⁴⁸ *ibid*

⁴⁹ *en.banglapedia.org. Labour Law Banglapedia.* [online] Available at: https://en.banglapedia.org/index.php?title=Labour_Law .

In addition to this law, workers under EPZs' labour rights are regulated by the Bangladesh Export Processing Zone Act 2019, which came into effect on 28 February 2019. The act is currently under review for incorporation with the ILO, with future amendments expected in 2026. Further to supplement the act new Export Processing Zones Labour Rule (EPZ Labour Rule), which came into enforcement on October 4 in 2022.⁵⁰

Previously, the EPZ workers' rights were regulated by the Bangladesh Export Processing Zones Authority Act (BEPZA) 1980 and the EPZ Workers Welfare Association and Industrial Relations Act (EWWAIRA) 2010.⁵¹ This outlines the authority's powers, functions, and responsibilities in managing and regulating EPZs. Furthermore, the 1989 Bangladesh Export Processing Zone Authority (BEPZA) introduced Bangladesh Export Processing Zones Authority Instruction Nos. 1 and 2.⁵²

⁵⁰ Ibid

⁵¹ The EPZ Workers Welfare Association and Industrial Relations Act (EWWAIRA) 2010. Available at: <http://bdlaws.minlaw.gov.bd/upload/act/2022-01-31-10-58-25-50.The-EPZ-Workers'-Welfare-Association-and-Industrial-Relations-Act,-2010.pdf>.

CHAPTER 2

Minimum Wage Fixing Regulation

1. Introduction

The RMG industry is widely recognised for its reliance on low wages and labour-intensive practices. Ensuring fair and adequate remuneration for workers is essential to provide economic security and freedom for them and their families. However, there have been concerns about the attention given to ensuring fair pay in practice.⁵³ In Bangladesh, RMG workers often earn below a living wage, with the industry having the lowest minimum wage. This consistent underpayment has resulted in frequent labour unrest and raised concerns about violating workers' rights. Criticisms have been directed at the inadequate minimum wage mechanism in national labour laws and the non-compliance with International Labor Organization (ILO) conventions in the RMG industry.⁵⁴

According to the ILO, implementing a minimum wage (MW) is widely acknowledged as a vital tool in the global labour market. The ILO's 2020-21 report indicates that 90% of its 187 Member states have established an MW through government legislation, tri-party agreements, or collective bargaining.⁵⁵

The chapter will discuss the importance of minimum wage regulations in Bangladesh's Ready-Made Garments (RMG) industry. It offers a detailed analysis of the global concept of minimum wage and its development, specifically focusing on Bangladesh. The chapter also explores wage discrimination within and outside export processing zones (EPZs), compares Bangladesh's minimum wage regulations under BLA 2006 and the EPZ Labour Act 2019, and compares these acts to ILO conventions compliance.

Further research could highlight the significance of effectively implementing and enforcing minimum wage regulations. It includes discussing the role of the Minimum Wage Board in ensuring fair wages, the importance of notifying minimum wage, the need for thorough

⁵³ Bueno, N. (2020). Freedom at work, freedom through work, freedom from work: Rethinking fundamental labour rights. *International Labour Review*, 160(2). doi.org/10.1111/ilr.12192.

⁵⁴ Syed, R. (2020). Mechanisms Implementing Minimum Wage Policies and Compliance with the ILO's Provisions: The Case of Bangladesh's Garment Global Supply Chain. *E-Journal of international and comparative labour studies*, [online] 9(2). Available at: https://ejcls.adapt.it/index.php/ejcls_adapt/article/view/884 [Accessed 13 Jun. 2021].

⁵⁵ Global Wage Report 2020-21: Wages and minimum wages in the time of COVID-19 | International Labour Organization. (2020). [online] www.ilo.org. Available at: <https://www.ilo.org/publications/flagship-reports/global-wage-report-2020-21-wages-and-minimum-wages-time-covid-19> [Accessed 14 Apr. 2021].

inspections, and appropriate penalties for non-compliance. Additionally, the chapter could recommend specific measures to address discrepancies in minimum wage fixing and propose strategies to align Bangladesh's minimum wage regulations with international standards to ensure fair compensation for RMG workers.

2. The Global Concept of Minimum Wage and Development

International, regional, and national organisations have universally recognised the concept of "minimum wage" (MW). This idea acknowledges that workers deserve a fair and reasonable wage. This wage should be enough to cover their basic needs, including food, housing, healthcare, and education. The primary objective of this principle is to prevent worker exploitation and underpayment, ensuring that every worker can afford their necessities without facing financial hardship.

Being part of the Treaty of Versailles, the Labour Charter established the International Labour Organization (ILO) in 1919. The ILO brings together representatives from governments, employers, and workers in its executive bodies. The organisation's constitution prioritises the right to a living wage that guarantees a reasonable standard of living and recognises the principle of equal pay for work of equal value. The ILO's Constitution consists of a Preamble emphasising the significance of labour conditions, stressing that labour should not be treated as a commodity and that industrialised countries should not exploit workers. The ILO recognises the right to a living wage sufficient for a reasonable standard of living.⁵⁶

As a sufficient wage mandated in the ILO constitution, over a century ago, in 1928, it approved the first conventions and recommendations, the Minimum Wage-Fixing Machinery Convention (No. 26) and Recommendation (No. 30). Eventually, the role of the minimum wage has progressed from being an instrument of protection for a partial group of workers exposed to exploitation, become an instrument for the economic development of a broader segment of workers. Later, the Minimum Wage-Fixing Machinery Convention (No. 131) and Recommendation (No. 135) for Developing Countries were adopted in 1970. The Minimum Wage-Fixing Machinery (Agriculture) Convention (No. 99) was established in 1971.

⁵⁶ Marinakis, A. (2009). The role of ILO in the development of minimum wages. [online] *www.ilo.org*. Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_180793.pdf.

These conventions and recommendations signify the importance of the minimum wage as a fundamental labour right.⁵⁷

Furthermore, the MW concept was also recognised and defined by other international bodies, such as the United Nations; the Universal Declaration of Human Rights (1948), Articles 23 and 25 stated: "Everyone who works has the right to receive fair and favourable compensation, which ensures a life of dignity for themselves and their families."⁵⁸ The International Covenant on Economic, Social, and Cultural Rights, Article 7, acknowledges "the right of individuals to enjoy just and favourable working conditions, adequate wages, and remuneration sufficient to provide a decent standard of living for themselves and their families".⁵⁹

Other than this, regional organisations like the European Social Charter 1996 Article 4⁶⁰, also considered "the right of workers to fair wage, which will give them and their families a decent standard of living"⁶¹. Meanwhile, the Council of Europe, the Community Charter of the Fundamental Social Rights of Workers, 1989, Articles 4 and 5 stated, "Every person has the freedom to pursue any career of their choice. However, equitable remuneration is necessary to guarantee a good standard of living for employees and their families, following the applicable agreements in each country"⁶².

Furthermore, the American Declaration of the Rights and Duties of Man 1948, Article XIV states: "Each worker has a right to wages that ensure a decent standard of living for themselves and their family, in proportion to their abilities and skills"⁶³. In the African Charter on Human and Peoples' Rights 1986, Article 15 ensures that every individual has the right to work under equitable and adequate conditions and to be paid equally for equal labour.⁶⁴

⁵⁷ BILS, report (2015). National Minimum Wage for Bangladesh's Workers: Rational Standard and Rationality of National Minimum. [online] <https://bilsbd.org/>. Bangladesh Institute of Labour Studies- BILS. Available at: https://bilsbd.org/wp-content/uploads/2016/03/NMW_MJF.pdf. [Accessed: August 24, 2023].

⁵⁸ Universal Declaration of Human Rights 1948 (UDHR), Article 23. Available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article%2023,equal%20pay%20for%20equal%20work>.

⁵⁹ International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 7, Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

⁶⁰ European Social Charter (1996) Article 4. Available at <https://rm.coe.int/168007cf93>

⁶¹ Syed, R. (2020). Mechanisms Implementing Minimum Wage Policies and Compliance with the ILO's Provisions: The Case of Bangladesh's Garment Global Supply Chain. Pp58. *E-Journal of International and Comparative Labour Studies* [online] 9(2). Available at: https://ejcls.adapt.it/index.php/ejcls_adapt/article/view/884 6 [Accessed 13 Jun. 2021].

⁶² Community Charter of the Fundamental Social Rights of Workers (1989) Article 4 and 5. [Available at: <https://op.europa.eu/en/publication-detail/-/publication/51be16f6-e91d-439d-b4d9-6be041c28122>]

⁶³ American Declaration of the Rights and Duties of Man 1948, Article XIV. [Available at <https://www.oas.org/en/iachr/mandate/Basics/american-declaration-rights-duties-of-man.pdf>]

⁶⁴ African Charter on Human and Peoples' Rights 1986 (ACHPR) Article 15. [Available at: https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf]

Minimum wage (MW) regulation, dating back to the Hammurabi Code, was initially developed in New Zealand and Australia to reduce industrial conflicts and remove inadequate wage levels. By 1911, all states in Australia had wage boards, and minimum wages were set for various categories of workers. The practice eventually extended to other countries, including the United Kingdom, the United States, Canada, and developing nations. The UK Parliament passed minimum wage legislation in 1909 to eliminate "sweating," initially covering only four industries. By the end of 1926, minimum wages were in effect for around 40 trades, employing approximately 15 million people. At that time, in European countries, minimum wage regulation was first limited to homeworkers. However, legislation of this type was subsequently implemented for other worker categories in France, Norway, Austria, Czechoslovakia, Germany, Spain, Hungary, and Belgium. The USA enacted its first minimum wage rule in 1912, initially applying to women and children in Massachusetts.

Latin America implemented minimum wage legislation in the mid-1930s and 1950s, closely linked to comprehensive labour codes. Process initiated before the Second World War. Further minimum wage regulation and other protective legislation gained grip in British colonies like Africa between the 1940s and 1950s and in the Caribbean countries. Developing Asian countries, including India and Pakistan, have developed minimum wage rules over time. India enacted the Minimum Wages Act of 1948, which aimed to provide fair remuneration to workers. Pakistan, on the other hand, passed the Minimum Wages Ordinance in 1969 specifically for unskilled workers.⁶⁵

3. Exploring the Minimum Wage Scenario in Bangladesh

The adequacy of the minimum wage (MW) for unskilled workers in Bangladesh's Ready-made Garments (RMG) industry has been a topic of considerable discussion and criticism. The current wage level falls short of meeting the basic needs of workers and their families. The MW for lower-grade RMG workers was set at 8,000 Tk (approximately \$74) in November 2018 and has remained unchanged for the past five years. However, even at the time of its declaration, the MW was insufficient to provide workers with a decent standard of living. With the added financial strain of the COVID-19 pandemic and high inflation, workers continue to face financial difficulties despite the lack of salary increases.⁶⁶

⁶⁵ Starr, G. (1993). Minimum wage fixing: an international review of practices and problems. [online] *Geneva: International Labour Office*. Available at: https://webapps.ilo.org/public/libdoc/ilo/1981/81B09_266_engl.pdf.

⁶⁶ Clean Clothes Campaign (CCC) (2023). Clean Clothes Campaign supports Bangladeshi unions in their 23,000Tk minimum wage hike demand. [online] Available at: <https://cleanclothes.org/clean-clothes-campaign-supports-bangladeshi-unions-in-their-23000tk-minimum-wage-hike-demand> [Accessed 25 Sep. 2023].

As a result, there have been growing concerns about the minimum wage policy for RMG workers and their ability to earn a living wage. On February 6, 2023, IndustriALL's affiliates in Bangladesh called for a raise in the minimum wage due to the impact of high inflation on workers' ability to cover their expenses.⁶⁷ They suggested increasing wages from 8,000Tk (\$75) to 23,000Tk (\$215)⁶⁸. The government has responded to these demands by establishing a new wage board composed of six members to recommend the minimum wage for RMG workers. The new minimum wage for RMG workers in Bangladesh will be announced at the end of 2023.⁶⁹

Since the beginning of Bangladesh's RMG industry in 1970, there has been no minimum wage for workers. When the industry started booming between 1980 and 1985, the government declared the minimum wage scale as the Minimum Wages Board recommended under section 6(1)(a) of the Minimum Wages Ordinance 1961⁷⁰. The Ministry of Labour and Manpower (now Ministry of Labour and Employment) published the Minimum Wage Gazette 1984 notification No SRO 583-L/84/S-X/3(3)/84⁷¹ On December 26 1984. Consequently, on June 16 1985, Bangladesh's RMG industry's minimum salary rates were determined based on grade.⁷²

The government first implemented a minimum wage of 627tk for entry-level workers in RMG in 1985 under the "Minimum Wages Ordinance" of 1961. Between 1985 and 2018, the minimum wage increased six times. After implementing BLA 2006, it was revised three times, in 2010, 2013, and 2018, and set at MW 3000 Tk.⁷³, 5300Tk⁷⁴ and 8000Tk⁷⁵, respectively.

⁶⁷ IndustriALL. (2023). Bangladeshi unions demand increased minimum wage for garment workers. [online] Available at: <https://www.industrialunion.org/bangladeshi-unions-demand-increased-minimum-wage-for-garment-workers>.

[Accessed: October 18, 2023]

⁶⁸ Wage board formed to review RMG workers' pay. (2023). *The Business Standard*. [online] 10 Apr. Available at: <https://www.tbsnews.net/economy/rmg/govt-forms-new-wage-board-rmg-workers-614406>. [Accessed 13 Sept. 2023]

⁶⁹ New wage for RMG workers likely by November. (2023). *The Business Standard*. [online] 10 Aug. Available at: <https://www.tbsnews.net/economy/rmg/further-consultation-needed-fixing-wage-garment-workers-owners-wage-board-meeting-680266>. [Accessed January 2024]

⁷⁰ Minimum Wage Ordinance 1961; section 6(1a) [Available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/96234/113670/F-1598347207/PAK96234.pdf>]

⁷¹ Minimum Wage Gazette 1984 [Available at https://www.dpp.gov.bd/upload_file/gazettes/268-269-Law-1985.pdf].

⁷² Hasan, M.A. (2019). Minimum Wage in Readymade Garments Industry in Bangladesh. *American Journal of Trade and Policy*, 6(2), pp.57–66. doi.org/10.18034/ajtp.v6i2.348.

⁷³ Salam, M.A. and McLean, G.N., 2014. Minimum wage in Bangladesh's ready-made garment sector: Impact of imbalanced rates on employee and organization development. *HRD: Reflecting upon the Past Shaping the Future. Edinburgh Scotland: UFHRD*. <http://www.ufhrd.co.uk/wordpress/wp-content/uploads/2014/11/Abdus-Salam.pdf>.

⁷⁴ Minimum Wage Gazette 2013. Available at <https://betterwork.org/wp-content/uploads/7.-Minimum-Wages-RMG-Gazette-2013-English-Version.pdf>.

⁷⁵ Minimum Wage Gazette 2018, amended in 24 January 2019. [Available at https://www.dpp.gov.bd/upload_file/gazettes/29984_73163.pdf] (Bangla version)

Table 1

Minimum wage in RMG Bangladesh Entry-Level

Years	Minimum wage in (Taka)
1985	627
1994	930
2006	1662
2010	3000
2013	5300
2018	8000
2023	12000 (proposed)

Source: Dhaka Tribune⁷⁶

Despite recent wage increases, living costs have risen dramatically, making it more difficult for workers in this industry to make ends meet. In 2020, workers in this field earned significantly less than workers in other exporting countries such as China (\$217), Vietnam (\$151), and Cambodia (\$176). Furthermore, COVID-19 has had a devastating impact on the world, and the current crisis between Russia and Ukraine has made matters worse. As a result, food prices have increased, making it impossible for everyone, regardless of income level, to afford necessities. Due to the low wages earned by workers in this industry, it is challenging for them to support their families and meet their daily needs.

4. The Issue of Wage Discrimination: inside and outside EPZs

In Bangladesh, considerable wage discrepancy is observed between RMG workers within and outside EPZs because of different calculation methods. The payout structure for workers outside EPZ workers is based on basic pay, house rent (40% of basic in 2013 and 50% in 2018), and medical allowance. This difference in payout structure between the two groups of workers highlights the need for a more equitable wage system.⁷⁷

⁷⁶Dhaka Tribune (2019) “A brief history of the minimum wage in the garment sector,” [www.dhakatribune.com](https://www.dhakatribune.com/bangladesh/nation/165760/a-brief-history-of-the-minimum-wage-in-garment), 11 January. Available at: <https://www.dhakatribune.com/bangladesh/nation/165760/a-brief-history-of-the-minimum-wage-in-garment>. [Accessed: March 21, 2023].

⁷⁷ Hasan, M.A., 2019. Minimum Wage in Readymade Garments Industry in Bangladesh. *American Journal of Trade and Policy*, 6(2), pp.57-66. doi.org/10.18034/ajtp. v6i2.348.

Table 2

Minimum wage for RMG workers outside and inside EPZs in 2013 and 2018

	Minimum wage (amount in TAKA)						
Non-EPZ 2013 Grade 7 ⁷⁸	Basic wage	House rent is 40% of the basic.	Medical allowance	Transport allowance	Food allowance	Increment on basic	Gross monthly wage
	3000	1200	250	200	650	5%	5300
EPZ 2013 Helper ⁷⁹	3600	1440	560			10%	5600
Difference	600	240	310				300
Non EPZ 2018 Grade 7 ⁸⁰	4,100	2,050 50%	600	350	900	5%	8000
EPZ 2018 Helper ⁸¹	4500	2250 50%	1450			10%	8200

Source: Made by the Author

⁷⁸ Minimum Wage Gazette 2013. (5 December 2013). Better Work. (2017). *Minimum Wages Gazette in Bangladesh 2013*. [online] Available at: <https://betterworksite2024.azurewebsites.net/reports-and-publications/minimum-wages-in-bangladesh-2013> / [Accessed 13 Jun. 2021].English version.

⁷⁹Minimum Wage Gazette 2018 (24 January 2018), [Available at: https://www.dpp.gov.bd/upload_file/gazettes/29984_73163.pdf] Bengali version.

⁸⁰BEPZA Wage Circular 2013 (13 December 2013). Available at: https://bepza.portal.gov.bd/sites/default/files/files/bepza.portal.gov.bd/page/9ed10969_c352_45ed_a796_08ea29f549ae/Minimum%20Wages-2013.pdf

⁸¹ BEPZA Wage circular, 2018 (14 November 2018), Available at <https://www.bepza.gov.bd/>

Based on the data in Table 2, there is only a slight difference in the gross monthly wage between non-EPZ workers and EPZ workers. Non-EPZ workers receive a gross amount, which includes transport and food allowances for all grades. On the other hand, EPZ workers receive gross wages without additional transport and food allowances. However, enterprises inside EPZs are already paying transport and food allowances and will continue to do so without any changes due to the minimum wage refixing. Adding these two allowances can increase the gross wage for EPZ workers.⁸²

The comparison of the last two MW declarations for non-EPZ and EPZ workers in 2013 and 2018 reveals some interesting facts. In 2018, the house rent for both non-EPZ and EPZ workers increased by 10% compared to 2013, going from 40% to 50%⁸³. However, the annual increments of 5% for non-EPZ and 10% for EPZ have remained the same (Table 2).

EPZ workers receive additional benefits such as festival bonuses, earned leave encashment, production and attendance bonuses, and 24/7 medical treatment and medicine at EPZ medical centres or hospitals. They also get subsidised education facilities for their children in BEPZA-run schools and colleges.⁸⁴ It is unfair that workers performing the same job with the same skills are subject to wage discrimination due to geographic differences, which is one of the critical causes of labour dissatisfaction in the RMG industry.

Furthermore, the grading system introduced by the gazette in 2013 has confused wage distribution. According to the schedule (kha), grade 7 includes 14 positions, whereas grades 6, 5, 4, 3, 2, and 1 have 10, 14, 10, 13, 2, and 4 positions, respectively.

Table 3
Grading of RMG workers' positions in 2013

Grade 1	Pattern Master, Chief Quality Controller, Chief Cutting Master/Cutting Chief, and Chief Mechanic
Grade 2	Mechanic/electrician, Cutting master

⁸² Ibid

⁸³ Uz-Zaman, A. and Khan, A.M., 2021. Minimum wage impact on RMG sector of Bangladesh: Prospects, opportunities and challenges of new payout structure. *International Journal of Business and Economics Research*, 10(1), pp.8-20.

⁸⁴ BEPZA | Bangladesh Export Processing Zones Authority. Available at: <https://www.bepza.gov.bd/content/faq>.

Grade 3	Sample machinist, Mechanic, Senior Sewing Machine, Senior Winding Machine, Senior knitting machine, Senior knitting machine operator, Senior Cutter, Senior quality inspector, Senior Marker/Senior, Drawing Man/Senior Drawing Woman, Senior Line Liver, Senior Overlock Machine, Senior Button Machine Operator and Senior Kanchai Machine operator.
Grade 4	Sewing Machine, Winding Machine, Knitting Machine, Linking Machine Operator, Marker/ Drawing Man/Drawing Woman, Cutter, Melding Operator, Pressing Man/woman, Iron Man/woman, Folder (finishing section), Packer.
Grade 5	Junior Sewing Machine, Junior Winding Machine, Junior knitting machine, Junior Linking machine Operator, Junior Marker/ Drawing Man/ Woman, Junior Cutter, Junior Melding Operator, Junior Pressing man/women, finishing, iron man, Junior Folder (concluding section), Junior Electrician, Junior Packer, Junior Overlock Machine Operator, Junior Button Machine and Junior Kanchai Machine Operator.
Grade 6	General Sewing Machine, General Winding Machine, General knitting machine, General Linking machine Operator, General Melding Operator, General Fusing Machine, General Color Turning, General Over Lock, General Button Machine and General Kanchai Operator
Grade 7	Assistant Sewing Machine, Assistant Winding Machine, Assistant knitting machine, Assistant Linking machine, Assistant Melding Operator, Assistant cutter, Assistant Marker/Assistant Drawing man/Women, Assistant pocket creasing machine operator men/women

Source: MoLE Gazette 2013⁸⁵

After a thorough evaluation of the grading system, it has been determined that it does not accurately reflect the required skills and qualifications for certain positions. For example, jobs like sewing machine assistant and overlock machine helper should be graded separately due to their unique tasks. Similarly, the role of pocket creasing machine operator requires advanced skills and experience and thus should be graded higher. Currently, the grading for this position ranges from 6 to 4, which makes it difficult to distinguish between general operator and

⁸⁵ Minimum Wage Gazette 2013. (5 December 2013). Better Work. (2017). *Minimum Wages Gazette in Bangladesh 2013*. [online] Available at: <https://betterworksite2024.azurewebsites.net/reports-and-publications/minimum-wages-in-bangladesh-2013/> [Accessed 13 Jun. 2021]. English version.

operator roles that require higher levels of skill and experience. A more effective grading system should include junior operator, operator, and senior operator roles. Additionally, to become a senior quality inspector in grade 3, a combination of education and specific skills is required. According to experts, an electrician's job is routine, while a mechanic's duty is more intricate and challenging. Along with the complex grading positions in 2013⁸⁶, new positions were added to the grades in 2018 (MoLE Gazette 2018).⁸⁷

The grading system for RMG workers in EPZ factories is relatively simple. The workers are divided into five grades: Helper, Junior Operator, Operator, Senior Operator, and Highly Skilled. According to the 2013 and 2018 wage declarations, all workers will be promoted based on their performance, as outlined in 'Instructions 1 and 2 of 1989' in the BEPZA Gazette. As per BEPZA Instruction 2 Part 4, a Helper becomes a Junior Operator when they are allowed to operate a machine. For other positions, workers will be promoted after two years in the same post, considering their skills.⁸⁸

During the period from 2013 to 2018, it was observed that the increase in MW had a more significant impact on the gross compensation of grade 7 employees compared to other non-EPZ workers. The current situation has put employees in higher grades at a disadvantage, which creates an unfair environment. However, a study conducted by the Centre for Policy Dialogue (CPD), an independent think tank in Bangladesh, revealed that over the years, the percentage of basic wage in the total gross salary for all grades, including grade 7 workers, has decreased. The new wage structure implemented in 2018 continued this trend, with the basic wage for grade 7 workers accounting for only 51.25% of the total gross wage in 2018, as compared to 56.6% in 2013. This percentage was much higher in 2010 at 66.7%. Although the basic wage for grade 7 workers increased by 36.7%⁸⁹ the actual increase was only 1100tk (see Table 4).

⁸⁶ Hasan, M.A. (2019). Minimum Wage in Readymade Garments Industry in Bangladesh. *American Journal of Trade and Policy*, 6(2), pp.57–66. doi.org/10.18034/ajtp. v6i2.348.

⁸⁷ Minimum Wage Gazette 2018 (24 January 2018), [Available at: https://www.dpp.gov.bd/upload_file/gazettes/29984_73163.pdf] Bengali version.

⁸⁸ BEPZA (1989). *BEPZA instruction 1 2*. [online] Available at: <https://www.slideshare.net/slideshow/bepza-instruction-1-2-64652037/64652037> [Accessed 13 Jun. 2022].

⁸⁹ Golam Moazzem, K. (2019). New Minimum Wage of the RMG Sector Addressing the Issues of Non-Compliance in Implementation.p8 [online] *Centre for Policy Dialogue (CPD)*. Available at: <https://cpd.org.bd/wp-content/uploads/2019/10/CPD-Working-Paper-129-New-Minimum-Wage-of-the-RMG-Sector.pdf> [Accessed 2021].

Table 4

Comparing basic payout in grades (1-7) between 2013 and 2018 for non-EPZ workers.

Grades	Basic wage 2013	Basic wage 2018	Difference
Grade 1	8500	10440	1940
Grade 2	7000		1520
Grade 3	4075	5160	1085
Grade 4	3800	4930	1130
Grade 5	3500	4670	1170
Grade 6	3270	4370	1100
Grade 7	3000	4100	1100

Source: MoLE Gazette 2013 and 2018. *(Made by the Author)*

In 2018, basic wage increases ranged from 22.8% to 33.6% across different grades. The gross wage increased between grades 1 to 7 by 34.7%, 34.2%, 40.9%, 44.0%, 46.6%, 48.0%, and 50.0%, respectively (Table 4 CPD report).⁹⁰

In 2018, an error occurred in the MWB's calculation of MW rates. As a result, workers in grades 1, 2, and 3, who received basic wages with a 5% yearly increment since 2013, were paid 10848 Tk, 8934 Tk, and 5201 Tk. The announced payout resulted in a reduction of their basic wage by 408 Tk, 414 Tk, and 41 Tk, respectively (Table 4CPD report). The alterations in gross wages between the amount received in 2018 and the amount announced in 2018 for grades 1, 2, and 3 increased by 7.5%, 7.4%, and 14.4%, respectively, while grade 7 saw a more significant increase of 23.8%, according to Table 3 of the CPD report.⁹¹ Increments in other allowances could not impact workers of higher grades, as allowances are the same for all grades.

It was observed that the wage hikes implemented did not meet the demands of the workers' representatives. In 2013, the representatives had suggested a minimum pay of 6,000 Tk, which included a basic salary of 4,000 Tk, 1,600 Tk for housing, and 400 Tk for medical benefits.

⁹⁰ Ibid. p9.

⁹¹ Ibid p9

The suggested payment did not include a food allowance.⁹² In 2018, the workers demanded a minimum pay of 12,000 Tk, with a basic salary of 7,050 Tk, 2,820 Tk for housing costs, 1,000 Tk for medical allowance and 650 Tk for food and 500 Tk transport allowance for grade 7 workers.⁹³

On the other hand, for the EPZ workers, the wage hike in 2013, the basic wage of a helper was 3600 Tk, and the gross monthly wage was 5600 Tk. This means that the basic wage represented approximately 64% of the gross monthly wage. In 2018, the basic wage of a helper was 4500 Tk, and the gross monthly wage was 8200 Tk. This means the basic wage represented approximately 54.9% of the gross monthly wage. So, in 2013, the basic wage represented a higher percentage of the gross monthly wage for EPZ workers compared to 2018 (Table 4).

5. Minimum Wage Regulations in Bangladesh

The minimum wage system is a crucial economic tool that significantly impacts the well-being of workers and the economy's growth. The minimum wage rate is subject to variation across countries and regions, with factors such as cost of living, economic conditions, and industry standards playing a significant role. Setting minimum wage rates can be a complex issue for governments. While some choose to implement a blanket minimum wage rate for all workers, others recognise the need for industry-specific rates. By taking into account the unique needs and challenges faced by different industries, such as variable levels of skill or demand, industry-specific wage rates can help ensure fair compensation for workers while also promoting economic growth. Ultimately, it is up to each government to carefully consider the best approach for its country and its workforce. Setting minimum wage rates can be a complex issue for governments. While some choose to implement a blanket minimum wage rate for all workers, others recognise the need for industry-specific rates. By taking into account the unique needs and challenges faced by different industries, such as varying levels of skill or demand, industry-specific wage rates can help ensure fair compensation for workers while also

⁹² Hasan, M.A. (2019). Minimum Wage in Readymade Garments Industry in Bangladesh. *American Journal of Trade and Policy*, 6(2), pp.57–66. doi.org/10.18034/ajtp.v6i2.348.

⁹³ Ashik-Uz-Zaman, S. and Abdul Mannan Khan, M. (2021). Minimum Wage Impact on RMG Sector of Bangladesh: Prospects, Opportunities and Challenges of New Payout Structure. *International Journal of Business and Economics Research*, 10(1), p.8-20 doi.org/10.11648/j.ijber.20211001.12.

promoting economic growth. Ultimately, it is up to each government to carefully consider the best approach for their country and its workforce.⁹⁴

Bangladesh has statutory minimum wage rates that vary depending on industries. The Minimum Wage Board (MWB) is the primary wage-setting authority in Bangladesh. It was established by the Pakistani government in 1959. The concept of minimum wage was introduced during the 1928 ILO General Conference through Convention No. 26 and Recommendation No. 30.

Convention No. 26 requires a minimum wage mechanism for workers in various trades or industries. By adhering to this Convention, employers promote fairness and equality in the workplace.⁹⁵ During that time, Bangladesh was a part of Pakistan; as a member of the ILO, Pakistan incorporated a mechanism for fixing the MW. In Pakistan, the MW was set by two laws: the Minimum Wage Ordinance of 1961⁹⁶ and the West Pakistan Minimum Wages Rules of 1962.⁹⁷ Following Bangladesh's independence in 1971, the government chose to maintain the existing laws through the Bangladesh Laws Order (President's Order No. 48). Additionally, new rules were introduced in response to the evolving needs of the working class and the country.

The MWB is a department under the Ministry of Labor and Employment (MoLE)⁹⁸, which fixes the MW for 42 different industries in Bangladesh. MW was set according to the industry's economy and job types; the MW rate also varies per urban or rural area or export zone⁹⁹. Previously, payment of "wage" or "minimum wage" and other matters were regulated by the "Payment of Wages Act" 1936¹⁰⁰, which covered a wide range of sectors and workers. Later, a new Bangladesh Labour Act (BLA 2006) was introduced, which unified the 1936 Act with

⁹⁴ Saget, C. and Eyraud, F. (2006) The Fundamentals of Minimum Wage Fixing. Geneva: International Labour Office. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_164972.pdf.

⁹⁵ Minimum Wage Board. <https://mwb.portal.gov.bd/site/page/b40a20c0-8e5e-4183-92f0-017b0baca9b4/%E0%A6%85%E0%A6%AB%E0%A6%BF%E0%A6%B8-%E0%A6%AA%E0%A6%B0%E0%A6%BF%E0%A6%9A%E0%A6%BF%E0%A6%A4%E0%A6%BF>

⁹⁶ Minimum Wage Ordinance 1961; section 6(1a) [Available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/96234/113670/F-1598347207/PAK96234.pdf>]

⁹⁷ West Pakistan Minimum Wages Rules of 1962. Available at: <https://www.ilo.org/dyn/travail/docs/970/West%20Pakistan%20Minimum%20Wages%20Rules%201962.pdf>.

⁹⁸ Hasan, M.A., 2019. Minimum Wage in Readymade Garments Industry in Bangladesh. *American Journal of Trade and Policy*, 6(2), pp.59

⁹⁹ Grimshaw, D. and de Bustillo, R.M. de B. (2017). *Global Comparative Study on Wage Fixing Institutions and their Impacts in Major Garment Producing Countries* | International Labour Organization. [online] [www.ilo.org](https://www.ilo.org/publications/global-comparative-study-wage-fixing-institutions-and-their-impacts-major). Available at: <https://www.ilo.org/publications/global-comparative-study-wage-fixing-institutions-and-their-impacts-major> [Accessed 13 Jun. 2021].

¹⁰⁰ The Payment of Wage Act 1936. Available at: <https://webapps.ilo.org/dyn/travail/docs/625/Payment%20of%20Wages%20Act%201936.pdf>.

some changes¹⁰¹. Along with the Bangladesh Labour Rule 2015(BLR 2015) to supplement the BLA 2006.

Now, the payment of minimum wages and wage-fixing machinery is regulated by the BLA 2006. Chapter 10 of the BLA 2006 describes "wages" and other related payments to the workers. Section 120 of the BLA 2006 considers the definition of "wages" as stated in section 2(45): "Wages" include all remuneration that can be expressed in monetary terms. They are paid to a worker if the employment contract terms are met.¹⁰² The term "wages" includes other additional remuneration such as holiday, overtime, retrenchment, discharge, removal, resignation, retirement, and layoff payment.¹⁰³ Furthermore, employers are obliged to pay wages to workers as per sections 121 and 122 of the BLA 2006, and employers should fix the wage period not to exceed one month. Section 123 of the BLA 2006 states that wages must be paid by employers or a responsible person within seven working days following the last day of the wage period for which they are due.¹⁰⁴

However, Bangladesh's Minimum Wage Board (MWB) is the only MW-fixing body. The BLA 2006 chapter 11 describes the formation of the MWB. Under section 138, the Bangladesh government is required to establish the MWB. The MWB should be composed of four permanent members. The government selected one chairman and one independent member.¹⁰⁵ The employers and workers organisation nominate one representative of employers and workers, and one representative of the employers and workers industry is concerned. If the organisation fails to nominate a member, the government will appoint a representative at its discretion, section 138 (2 and 3) BLA 2006.¹⁰⁶ To implement section 138(6) of BLA 2006, the government should follow section 121(1-3) of BLR 2015. The government shall nominate owner and worker representatives from the maximum representative federations of the owners and workers. Without federation, the government shall select from the highest owner associations and trade unions. In both circumstances, the Director of Labour must seek the nomination.¹⁰⁷

¹⁰¹Chowdhury, M.S., 2006. Minimum wages in Bangladesh—Issues and challenges. *The Chittagong University Journal of Law*, 11(2006), pp.1-32.

¹⁰² The Bangladesh Labour Act (BLA 2006), Section 2(45). Available at: <https://compliancebangladesh.com/wp-content/uploads/2022/08/bangladesh-labour-act-2006-english.pdf>

¹⁰³ The Bangladesh Labour Act (BLA 2006), section 120(a-e).

¹⁰⁴ The Bangladesh Labour Act (BLA 2006) section 123.

¹⁰⁵ The Bangladesh Labour Act (BLA 2006) section 138.

¹⁰⁶ The Bangladesh Labour Act (BLA 2006) section 138(2-6).

¹⁰⁷ The Bangladesh Labour Rule (BLR 2015) section 121(1-3)

The government, upon request from the employers or workers or both parties of a specific industry, should consider fixing the minimum wage rates. Instruct the MWB to recommend new minimum rates of wages after all necessary queries for that industry worker or class of workers within six months, section 139(1-2)¹⁰⁸ However, as per section 122(5) of BLR 2015, no recommendation shall be discarded only because of delay.¹⁰⁹ The MWB can recommend minimum wages for time work or piece work, specify minimum time rates for piece work, and set time rates on an hourly, daily, weekly, and monthly basis, section 139(3 and 4) BLA 2006.¹¹⁰

Furthermore, the MWB can recommend whether the new minimum wage rates shall apply to the workers in a specific industry uniformly all over the country or differ in regions. MW rates shall be refixed every five years for all workers in any industry, section 139 (5-6) BLA 2006.¹¹¹ Under section 141 of BLA 2006, the MWB shall consider the following factors: socio-economic conditions, cost of living, standard of life, cost of production, productivity, price of goods, inflation, nature of job, risk level, and business ability, the country and the locality concerned, and other relevant factors while deciding the MW rates.¹¹²

Before forwarding the minimum wage rates to the government, the MWB shall publish the recommendations in the official gazette so that the owners' and workers' representatives can voice their objections and recommendations within 14 days of publishing the notice. Upon receiving objections or recommendations, the MWB can accept or keep the original proposal and forward it to the government, section 128(1-3) BLR 2015¹¹³. The MWB shall decide with the consent of the majority of members present in the meeting, with an open hand-raising voting system. In case of equal voting, the chairman can vote and take the final decision, section 129 BLR 2015.¹¹⁴ After receiving the recommendations from the MWB, the government may declare the minimum wage rates by official gazette notification. If the government thinks the recommendations are unsuitable for workers or employers, they can be referred to the MWB within forty-five days. Upon receiving recommendations referred from the government, the MWB will reconsider them. If necessary, the MWB will change the minimum rates of wages or may keep them unchanged. Later, after receiving revised recommendations with or without modifications, the government will announce the MW in an official gazette notification. In the

¹⁰⁸ The Bangladesh Labour Act (BLA 2006) section 139(1-2)

¹⁰⁹ The Bangladesh Labour Rule (BLR 2015) section 122 (5) CHAPTER XI

¹¹⁰ The Bangladesh Labour Act (BLA 2006) section 139(3-4)

¹¹¹ The Bangladesh Labour Act (BLA 2006) section 139(5-6)

¹¹² The Bangladesh Labour Act (BLA 2006) section 141

¹¹³ The Bangladesh Labour Rule (BLR 2015) section 128(1-3), Available at: https://decentwork.bilsbd.org/wp-content/uploads/2018/11/bangladesh_labor_rules_2015_english_version_15-09-2015-1.pdf

¹¹⁴ The Bangladesh Labour Rule (BLR 2015) section 129.

official gazette, if any date is not specified, the declaration will take effect on the date of its publication. Once the government declares that minimum wage rates are fixed, no individual or authority can change the decision in any Court, section 140(1-7) BLA 2006¹¹⁵. After the amendment of BLA2006 in 2013, under section 140a, in exceptional circumstances, the government may declare the minimum wage structure for the industrial sector at any implementation stage, subject to the reconstitution of the Minimum Wages Board and compliance with necessary formalities¹¹⁶.

The owners are obliged to pay the minimum wage rate declared by the law to workers or employees. In case of less payment, the authorities must pay the concerned worker or employee an additional 50% of the outstanding debt. Further, the government shall take all the necessary steps to inform the owners and workers about the MW rates, and owners shall hang a notice in the factory in the local language declaring the MW rate, section 133(1-4) BLR 2015¹¹⁷.

The Export Processing Zones Authority supervises the RMG factories inside Bangladesh's Export Processing Zones (EPZ) following the Export Processing Zones "Authority" (BEPZA) Act of 1980. includes regulations on minimum wage rates and workers' rights. Later, in 2019, the government passed the Bangladesh Export Processing Zones Labour Act (EPZ Labour Act) 2019, focusing on labour practices, wage-related matters, and industry working conditions. It is important to note that the EPZ Authority, not the government, is directly responsible for setting.¹¹⁸ Further, to supplement the EPZ Labour Act 2019, the government introduced the Bangladesh EPZ Labour Rule 2022(EPZ Labour Rule 2022).

Moreover, the MW rates for the RMG workers in the EPZ were last revised in 2018. It was declared under the Bangladesh Export Processing Zones Authority Act 1980 (BEPZA Act 1980) by the Prime Minister's office on November 14 2018. Since 2018, the RMG workers in EPZ's minimum wage at apprentice or entry-level is 6250tk (\$76)¹¹⁹. As the 2019 Act came into force, the next MW will be declared under the EPZ Labour Act 2019 provisions. The 2019 Act is a comparable version of the BLA 2006. The formation of MWB and the fixing of MW rates in the 2019 Act vary slightly.

¹¹⁵ The Bangladesh Labour Act (BLA 2006) section140(1-7).

¹¹⁶ The Bangladesh Labour Act (BLA 2006) section140a (Amended 2013)

¹¹⁷ The Bangladesh Labour Rule (BLR 2015) section133(1-4)

¹¹⁸ The Bangladesh Export Processing Zones Labour Act 2019(EPZ 2019)
https://www.bepza.gov.bd/public/storage/upload/content-file/210731064604-32765_6059605792686867415.pdf

¹¹⁹ Wage Circular BEPZA 2018[Available at
[https://www.bepza.gov.bd/public/ckfinder/userfiles/files/Wage%20Circular%202018\(1\).pdf](https://www.bepza.gov.bd/public/ckfinder/userfiles/files/Wage%20Circular%202018(1).pdf)]

As per the EPZ Labour Act 2019, chapter 7, section 65(1), the government shall establish the MWB to fix EPZ workers' minimum wage rates. The MWB shall be composed of 11 members: a Chairman appointed by the government and a member of the "Authority."¹²⁰, a representative from the Prime Minister's Office, Finance and Labour and Employment Ministry, two representatives from the Authority, employers and workers, section 65(1a-h)¹²¹. The authority will nominate representatives from employers and workers based on nominations from both parties. If both parties fail to give a nomination, the authority will select section 65(2) at its discretion. The authority will prioritise the most representative federations of owners' and workers' welfare associations or federations, section 129(1) EPZ Rule 2022¹²². The MWB can add members to the board upon request of other members, and regardless of other provisions, the government has the power to re-establish the Wages Board, section 65(3,4) EPZ Labour Act 2019¹²³. Under section 66(EPZ Labour Act 2019), the government directs the MWB to recommend MW rates for workers within a reasonable time.¹²⁴ When the government accepts the Wages Board's recommendation pursuant to section 66, the "Authority" may, by official gazette notification, declare that the minimum rates of wages recommended by the Wages Board for the various categories of workers shall be the minimum rates of wages. Unless otherwise indicated in the notice under subsection (1), the declaration shall take effect on the date of its publication, and the minimum wage rates announced according to this section will be conclusive. No question or objection shall be raised about the decision in any court or to the Authority, section 67(1-3) EPZ Labour Act 2019.¹²⁵ While making the recommendation, the MWB shall consider the wage or salary scale of similar industries outside zones and other factors. In case of any changes in the factors, the government can ask the MWB to reconsider the recommendation or amend the MW rates, sections 68 and 69 of the EPZ Labour Act 2019.¹²⁶

Once the MW rates are declared under the act, the employers are obliged to pay minimum wage to workers, and workers have the right to receive wages at a higher rate than minimum rates, provided they are entitled to such facilities under agreements, awards, or customs. This ensures they continue to receive fair wages and benefits. The authority may take appropriate action

¹²⁰ Here, "Authority" means the Bangladesh Export Processing Zones Authority established under the Bangladesh Export Processing Zones Authority Act, 1980 (Act No. XXXVI of 1980) section 2(7), (EPZ Labour Act 2019)

¹²¹ The Bangladesh Export Processing Zones Labour Act 2019(EPZ Labour Act 2019), section 65(1a-h).

¹²² The Bangladesh Export Processing Zone Labour Rule 2022(EPZ Labour Rule 2022), section 129(1)

¹²³ The Bangladesh EPZ Labour Act 2019, (EPZ 2019) section 65(3,4).

¹²⁴ The Bangladesh EPZ Labour Act 2019 (EPZ 2019) section 66

¹²⁵ The Bangladesh EPZ Labour Act 2019, (EPZ 2019) section 67(1-3)

¹²⁶ The Bangladesh EPZ Labour Act 2019 (EPZ 2019) section 68,69

against an employer or the person responsible for paying wages if they fail to pay the declared minimum wage. Further, for this act, the authority has the power to determine the method of fixing workers' wages and other benefits, sections (70 -73), EPZ Act 2019¹²⁷. Further, the MWB in EPZs should follow the rules under Export Processing Zones Rule 2022(EPZ Rule 2022), which came into effect on September 21 2022 and contains provisions almost similar to those of BLR 2015. The objection period, decision-making process, employers' obligation to pay and notification of the MW rates by the government and employers are similar as mentioned above; procedures are described under sections 136, 137 and 141 of EPZ Rule 2022.¹²⁸

6. Labour Law Discrepancies: A Comparison with International Standards

The current scenario regarding minimum wage (MW) declarations for non-EPZ and EPZ workers is challenging. The MW declared by the MWB was often criticised due to a lack of definition and calculation methods in the BLA 2006 and the Bangladesh EPZ Labour Act 2019. Additionally, complications arise when considering the factors determining the minimum wage, and implementation and enforcement are also problematic. To establish an appropriate minimum wage standard at the national level. The Bangladesh national minimum wage fixing machinery should be compiled with the "Minimum Wage Fixing Convention" 1970 (No.131). It requires meaningful communication among stakeholders and careful consideration of workers' and their families' needs alongside economic conditions. It also entails periodic revisions and effective enforcement mechanisms.

6.1 The Living Wage Concept for Minimum Wages

Regarding the concept of "minimum wage" at the national level, there is often a lack of clarity and inconsistency in how it is defined. Determining what exactly counts as a minimum wage is challenging since no universal definition applies across the board. The International Labour Organization (ILO) does not offer a specific definition for the term "minimum wage." However, it states that the minimum amount of payment an employer must pay to employees for work done during a specific period cannot be lowered, either by a collective agreement or individually.¹²⁹

¹²⁷ The Bangladesh EPZ Labour Act 2019, (EPZ 2019) section 70-73

¹²⁸ The Bangladesh EPZ Labour Rule 2022(EPZ Rule 2022) sections 136, 137 141

¹²⁹ Minimum wage policy guide. (2016). [online] Geneva ILO. Available at: https://labordoc.ilo.org/discovery/delivery/41ILO_INST:41ILO_V2/1254239840002676. [Accessed: October 24, 2023].

The International Labour Organization (ILO) has used different phrases to refer to minimum wage despite being the first to introduce minimum wage regulations. However, its conventions and recommendations have used different terminologies to describe the minimum wage. For instance, the "Wage-Fixing Machinery Convention" (No.26) in 1928 referred to "minimum rates of wages" in Articles 1, 3, and 4¹³⁰. Convention (No.99) used three different phrases: "minimum rates of wages", "minimum wage," and "minimum rates"¹³¹. In recommendations (No. 30¹³² and No. 89¹³³ the ILO used "minimum rates" and "minimum wage rates". In 1970, Convention No.131¹³⁴ and Recommendation No.135¹³⁵ exclusively used the term "minimum wages". The ILO's underlying principle is that the minimum wage should be adequate to meet the basic needs of workers and their families and provide some discretionary income.¹³⁶

This lack of definition has resulted in confusion among the MWB in recommending MW in 2010. In 2013, the CPD proposed that the MWB may consider the concept of a "living wage" when recommending minimum wage rates without a clear definition. The idea of a living wage is closely associated with several concepts of minimum wage. A "living wage" aims to safeguard workers and their families so that they can afford a decent standard of living that is deemed acceptable by society based on the current level of economic change. The goal is to enable workers to live above the poverty line and actively participate in social and cultural activities.¹³⁷ Moreover, the ILO Constitution of 1919 and the United Nations Universal Declaration of Human Rights in 1948, Section 2, indicated that at least five international declarations on human rights have affirmed that a living wage is a fundamental human right.

¹³⁰ *Convention C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)*. Ilo.org. [online] Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312171:NO [Accessed 20 Jan. 2021].

¹³¹ Minimum Wage-Fixing Machinery (Agriculture) Convention, 1951 (No. 99). Available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:0::NO:12100:P12100_INSTRUMENT_ID:312244:NO.

¹³² Minimum Wage-Fixing Machinery Recommendation, 1928 (No. 30) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:0::NO:12100:P12100_INSTRUMENT_ID:312368

¹³³ Minimum Wage-Fixing Machinery (Agriculture) Recommendation, 1951 (No. 89) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:0::NO:12100_ILO_CODE:R089

¹³⁴ Minimum Wage-Fixing Convention, 1970 (No. 131) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:0::NO:12100_ILO_CODE:C131

¹³⁵ Minimum Wage Fixing Recommendation, 1970 (No. 135) https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:0::NO:12100_INSTRUMENT_ID:312473

¹³⁶ BISL (2015). National Minimum Wage for Bangladesh's Workers: Rational Standard and Rationality of National Minimum. [online] Bangladesh Institute of Labour Studies. Available at: https://bilsbd.org/wp-content/uploads/2016/03/NMW_MJF.pdf.

¹³⁷ Golam Moazzem, K. and Raz, S. (2014). *Minimum Wage in the RMG Sector of Bangladesh Deřinition, Determination Method and Levels Working Paper CPD 106*. [online] *cpd.org.bd*. Available at: <https://cpd.org.bd/resources/2014/03/WP-106.pdf> [Accessed 13 Jun. 2022].

The national constitutions of Brazil, India, Mexico, and Namibia also recognise the concept of a living wage and its significance in promoting fair wages and social justice.¹³⁸

Further, the ILO Convention 1970 (No. 131) Article 3 supports the concept of a living wage, which emphasises considering the necessity of workers and their families, and economic factors should be taken into account when setting minimum wage rates, either through collective bargaining or by law. Additionally, ILO Recommendation (No. 135) on minimum wage fixing prescribes that minimum wages should be a part of a policy to overcome poverty and meet the needs of all workers and their families.¹³⁹

Moreover, RMG workers' rights protection organisations like the Fare Wear Foundation (FWF) Code of Labour Practices, the Apparel Industry Labour Rights Movement (ALaRM), the Asia Floor Wage campaign (Decent Income for garment workers in Asia) and the Global Living Wage Coalition (GLWC) defined living wage like ILO. The living wage concept emphasises the idea that workers should be able to make enough money to fulfil their basic needs, such as food, housing, clothes, education, healthcare, and other required costs. It also allows for some savings and discretionary expenditure of workers and their families, giving them some additional income. The acceptance of the living wage concept is essential in the context of minimum wage negotiation of RMG workers in Bangladesh because, as per the ILO Committee of Experts declared in 1992, "the ultimate goal of the ILO Minimum Wage Convention ensures workers receive a minimum wage that provides a reasonable standard of living for themselves and their families."¹⁴⁰

The concept of a global living wage has become increasingly important in discussions about fair pay, especially among international organisations like the United Nations and the International Labour Organisation (ILO), as well as corporations and NGOs.

This idea has both positive and negative impacts on the assessment of minimum wages. A global living wage can greatly influence how minimum wages are determined by promoting the establishment of wages that accurately reflect the living costs in different regions. The concept of a "living wage" has shaped legal practice in determining minimum wage standards by introducing a more equitable benchmark for worker compensation. Unlike statutory

¹³⁸ Anker, R. (2011). *Estimating a living wage : a methodological review*. [online] *ILO Working Papers*. Available at: <https://ideas.repec.org/p/ilo/ilowps/994663133402676.html> [Accessed 11 Jun. 2021].

¹³⁹ Ibid. p16.

¹⁴⁰ BISL (2015). *National Minimum Wage for Bangladesh's Workers: Rational Standard and Rationality of National Minimum*. [online] Bangladesh Institute of Labour Studies. Available at: https://bilsbd.org/wp-content/uploads/2016/03/NMW_MJF.pdf.

minimum wages, which establish a legal baseline, living wages are designed to ensure workers earn enough to cover essential needs such as housing, food, childcare, and transportation without relying on government assistance.

The aim is to enhance workers' living conditions by ensuring their income is adequate to cover essential needs.¹⁴¹ Aligning the minimum wage with actual living costs is crucial for alleviating poverty and economic inequality, particularly in lower-income countries.¹⁴² For instance, Brazil¹⁴³ and South Africa¹⁴⁴ have effectively incorporated living wage principles into minimum wage regulations, reducing poverty and income inequality.

Higher wages can also invigorate local economies by increasing consumer spending, which leads to job growth and enhanced productivity. Additionally, when employees have higher disposable incomes, they tend to spend more on goods and services, stimulating demand and potentially creating more jobs. This approach also promotes compliance with international labour rights standards set by the International Labour Organization (ILO), fostering fair and dignified working conditions worldwide.¹⁴⁵

However, implementing a global living wage presents significant challenges. A major issue is the considerable variation in living costs between countries. For instance, the idea of a livable salary in a wealthy country like Switzerland may far exceed the attainable income levels in a developing nation like Cambodia.¹⁴⁶ Integrating a living wage into legislation can be complicated because the living wage distinction varies depending on local costs. This differs from the maximum wage, which often does not adjust for inflation or local economic conditions. For example, in several U.S. states, the minimum wage does not with the actual cost of living, forcing many workers to depend on public assistance programs such as Medicaid and SNAP. In high-cost areas, like Washington D.C. and Hawaii, the living wage for a single

¹⁴¹ United Nations Development Programme (UNDP) (n.d.) *Living Wage and Income Inequality*. Available at: <https://www.undp.org> (Accessed: 4 November 2024).

¹⁴² Global Living Wage Coalition (n.d.) *What We Do*. Available at: <https://www.globallivingwage.org> (Accessed: 6 November 2024).

¹⁴³ de Souza, P. H. (2017). *Brazil's minimum wage policy: Effects and prospects*. *Brazilian Journal of Political Economy*, 37(4), pp. 773-789. Available at: <https://doi.org/10.1590/0101-31572017v37n04a02> [Accessed 3 Oct. 2024].

¹⁴⁴ Bhorat, H. and Jacobs, T. (2019). The South African national minimum wage: Impact and prospects. *South African Labour and Development Research*, 41(2), pp. 123-145. Available at: <https://www.southafrica-labour.org/> [Accessed 3 Oct. 2024].

¹⁴⁵ International Labour Organization (ILO) (31 May 2017.) *Decent Work Agenda*. Available at: <https://www.ilo.org> (Accessed: 1 November 2024).

¹⁴⁶ Global Wage Report 2020-21: Wages and minimum wages in the time of COVID-19 | International Labour Organization, (ILO 2020). Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_762534.pdf

adult with one child is USD39.41 per hour and USD38.57 per hour, respectively. This highlights the significant gap between current minimum wages and what is necessary for financial independence¹⁴⁷. It can be argued that using a living wage as a standard for minimum wage may be more effective in high-income countries compared to developing countries, where social protection systems are often inadequate. This difference makes it challenging to establish a universally applicable minimum wage that can adapt to various economic conditions without threatening employment or economic stability in lower-income regions.

Furthermore, businesses—especially small and medium-sized firms (SMEs) in developing nations may encounter financial difficulties if they attempt to comply with living wage criteria since this might result in elevated production costs. This circumstance may impact their competitiveness, leading to layoffs or reduced hiring.¹⁴⁸ Moreover, sustainable substantial salary increases required to satisfy global living wage standards may enflame inflation, undermining economic stability and affecting consumer buying power.¹⁴⁹

Additionally, governments, particularly in emerging countries, may oppose the adoption of global living wage norms owing to political or economic apprehensions. Elevated salaries may be perceived as a threat to local employment and economic stability, potentially sparking social dissatisfaction or a populist movement. Corporations may oppose, contending that such rules diminish global competitiveness. Instances of opposition to minimum wage hikes in France and the United States (U.S.) illustrate the difficulties in enacting pay laws that are too ambitious or incongruent with local economic conditions.¹⁵⁰

Incorporating living wages into legislative frameworks promotes a more equal economic system, although it requires a comprehensive strategy to address varied regional and industry-specific circumstances. Policymakers must reconcile the ethical need for equitable salaries with the pragmatic considerations of company flexibility and economic stability.

¹⁴⁷ Drexel University (2023). *Living Wage vs. Minimum Wage: Impacts on Workers and Public Subsidies*. Available at: drexel.edu.

¹⁴⁸ Demirgüç-Kunt, A. (2011). *Generating Jobs in Developing Countries: A Big Role for Small Firms*. [online] World Bank Blogs. Available at: <https://blogs.worldbank.org/en/allaboutfinance/generating-jobs-in-developing-countries-a-big-role-for-small-firms>.

¹⁴⁹ Organisation for Economic Co-operation and Development (OECD) (n.d.) *Economic Surveys*. Available at: <https://www.oecd.org/economic-surveys> (Accessed: 25 October 2024).

¹⁵⁰ World Economic Forum (n.d.) Why does the minimum wage cause political drama? Available at: <https://www.weforum.org> (Accessed: 4 November 2024).

6.2 Minimum Wage Calculation Method

Suppose the MWB considers the concept of a living wage. Then, determining the calculation method could become another complicated matter as the acts do not contain any provision describing the calculation procedure. To address the uncertainty in minimum wage (MW) fixing regulation, the BLA 2006 was amended in 2013 and incorporated certain factors under Section 141, which the wage fixing body should consider when setting the MW. The factors mentioned in the act can be categorised into threefold. Firstly, the MWB should consider the living cost standards of workers and their families. Calculating the cost of living should include a family's food (caloric intake) and non-food expenses (such as house rent, transportation, and the child's education). In August 2013, CPD conducted research on focus group discussions (FGDs) to estimate the minimum wage (MW) in Bangladesh's ready-made garment (RMG) sector using three different methodologies.

- Using the upper poverty line values drawn from national statistical data on family and dependent size.
- Using up-to-date data from workers' focus groups to determine existing expenditures and purchasing power.
- Incorporating nutritional values of dietary intake into a model diet instead of energy values alone.

Finally, CPD advised the MWB to consider Anker's formula when calculating the living wage for RMG workers.

$$\frac{[(\text{Cost of Model Diet per Person} / \text{Food Share of Household Expenditure}) \times \text{Household Size}] / \text{No. of Fulltime Workers per Couple} + 10\% \text{ for Emergencies}]$$

Source: CPD report 2013¹⁵¹

One of the main advantages of this method is that it takes into account both the family as the unit of consumption and the number of income earners as the unit of earning. It means that the expenses related to the family's needs are not solely dependent on the income of RMG workers but will also be shared by another earner in the family¹⁵². Different organisations have different approaches to calculating a living wage. The Global Living Wage Coalition (GLWC) has embraced the methodology developed by Richard and Martha Anker. At the same time, the

¹⁵¹Golam Moazzem, K. and Raz, S. (2014). *Minimum Wage in the RMG Sector of Bangladesh DeŶinition, Determination Method and Levels Working Paper CPD 106*. [online] [cpd.org.bd](https://cpd.org.bd/resources/2014/03/WP-106.pdf). Available at: <https://cpd.org.bd/resources/2014/03/WP-106.pdf> [Accessed 13 Jun. 2022].

¹⁵² Ibid

Asia Floor Wage Alliance (AFWA) uses a method based on purchasing power parity (PPP). Further, the income of the RMG workers should be compared with the household income and expenditure, as they are living below the poverty line. The calculation benchmark should be "upper poverty line".¹⁵³

Various organisations' calculations for a living wage between 2013 and 2022 have shown significant differences. In 2013, the CPD determined the cost of living for RMG in and around Dhaka city. According to the poverty line method, a married worker needed a monthly income of Tk. 6,919, but the actual expenditure cost was Tk. 8,349. The calculation considered married workers with a household size of 3.25 and 1.61 earners.¹⁵⁴ On the other hand, AFWA in 2013 calculated the living cost of 25687 Tk.¹⁵⁵ However, the MW declared at that time was 5300 Tk for non-EPZ workers in grade 7 and 5600 Tk for EPZ workers. The BEPZA declared MW.

Later, in 2018, CPD conducted a survey that found the living conditions of RMG workers in Dhaka and nearby cities to be suboptimal. The survey analysed workers' household expenses, including food and non-food costs. The total cost of living for RMG workers was calculated at 22,435 Tk (USD 267), with 8,125 Tk allocated for food expenses and 11,142 Tk spent on non-food expenses.¹⁵⁶

Further, according to the GLWC report 2016, the living wage for RMG workers in Dhaka was estimated at 16450 TK and 13620 TK in Dhaka satellite cities.¹⁵⁷ The report was later updated in 2022 and 2023, where the living wage for Dhaka city was calculated at 23254 TK and 25497 TK, respectively, and 19255 TK and 21091 TK, respectively, for satellite cities.¹⁵⁸

Based on the available AFWA data, it appears that the estimated living wage has increased over the years. In 2017, the living wage was 37661 Tk, which rose to 48280 Tk in 2020 and is now

¹⁵³Islam, Md.M. (2019). Behind the price- A study on Garments industry in Bangladesh. <https://bilsbd.org/research-report/>. Oxfam in Bangladesh and BILS.

¹⁵⁴ Golam Moazzem, K. and Raz, S. (2014). Minimum Wage in the RMG Sector of Bangladesh Deřinition, Determination Method and Levels Working Paper CPD 106. p10,11. [online] *cpd.org.bd*. Available at: <https://cpd.org.bd/resources/2014/03/WP-106.pdf> [Accessed 13 Jun. 2022].

¹⁵⁵ Asia Floor Wage Alliance. (n.d.). Calculating a Living Wage. [online] Available at: <https://asia.floorwage.org/living-wage/calculating-a-living-wage/>. [Accessed: 21 August 2023].

¹⁵⁶ Golam Moazzem, K. and Arfanuzzaman, M. (2018). Livelihood Challenges of RMG Workers: Exploring Scopes within the Structure of Minimum Wages and Beyond. [online] *CPD Working Paper 126*. Available at: <https://ideas.repec.org/p/pdb/opaper/122.html> [Accessed 13 Jun. 2022].

¹⁵⁷ Khan, M., Anker, R., Anker, M. and Sandhya Barge (2016). Living Wage Report Dhaka, Bangladesh and Satellite Cities Context: The Garment Industry Series 1, Report 7. [online] Available at: https://www.globallivingwage.org/wp-content/uploads/2018/05/Dhaka_Living_Wage_Benchmark_Report.pdf [Accessed Mar. 2021].

¹⁵⁸ Andersen, L.E., Gonzales, A., Medinaceli, A., Anker, R. and Anker, M. (2022). Living Wage Update Report: Dhaka and Satellite Cities, Bangladesh, 2022. [online] Global Living Wage Coalition (GLWC). Available at: <https://ideas.repec.org/p/iad/glliwa/220428.html> [Accessed 8 Jun. 2023].

estimated at 53105 Tk in 2022. In 2017 and 2022, the food bucket was not counted in the estimation¹⁵⁹. In the context of Bangladesh, the Household Income and Expenditure Survey (HIES) by the Bangladesh Bureau of Statistics (BBS) is an important benchmark to consider. The HIES 2022 report estimates Bangladesh's total monthly household expenditure is 31,500 TK nationally. This value is comparatively higher in urban areas at Tk. 41,424, while it is lower in rural areas at Tk. 26,842.

In contrast to these values, the HIES 2016 report estimated a lower total monthly expenditure at Tk. 15,715 on a national level. This value was also lower in rural and urban areas, with Tk. 14,156 and Tk. 19,697, respectively. Similar to the HIES 2022 report, Bangladesh's average monthly household income stands at 32,422 Tk nationally. However, this value is lower in rural areas at 26,163 Tk and higher in urban areas at 45,757 Tk. Comparing these values to those reported in HIES 2016, we can observe a significant increase in the national income average from 15,988 Tk to 32,422 Tk. This increase is also evident in urban areas, where the average income rose from 22,600 Tk to 45,757 Tk. However, in rural areas, the increase was not as significant, with the average income increasing from 13,998 Tk to 26,163 Tk.¹⁶⁰ Although MW was declared in 2018 to be 8,000 Tk for non-EPZ grade 7 workers and 8,200 Tk for EPZ workers by the BEPZA. It is clear from the analysis of living wage amounts of different organisations that there is a significant difference between the minimum wage and living wage in the Bangladesh RMG sector. The minimum wage announced by MWB has consistently been below the calculated living wage, which considers the needs and expenses of the worker's family.

6.3 Factors to consider in minimum wage fixing

The MWB, after considering the living costs of the workers, should consider the second major factor, which is the economic factor in MW fixing. These include various variants: cost of production, productivity, price of products, nature of work and business capability. Unfortunately, there is no publicly available data to analyse these indicators.¹⁶¹

¹⁵⁹ Asia Floor Wage Alliance. (n.d.). Calculating a Living Wage 2017,2020 and 2022. [online] Available at: <https://asia.floorwage.org/living-wage/calculating-a-living-wage/>.

¹⁶⁰ HOUSEHOLD INCOME AND EXPENDITURE SURVEY HIES 2022. (2023). [online] www.bbs.gov.bd. Bangladesh Bureau of Statistics (BBS). Available at: https://bbs.portal.gov.bd/sites/default/files/files/bbs.portal.gov.bd/page/57def76a_aa3c_46e3_9f80_53732eb94a83/2023-04-13-09-35-ee41d2a35dcc47a94a595c88328458f4.pdf.

¹⁶¹ Golam Moazzem, K. (2019). *New Minimum Wage of the RMG Sector Addressing the Issues of Non-Compliance in Implementation*. [online] Centre for Policy Dialogue (CPD). Available at: <https://cpd.org.bd/wp-content/uploads/2019/10/CPD-Working-Paper-129-New-Minimum-Wage-of-the-RMG-Sector.pdf>. [Accessed 2021].p11

For instance, there is no proper standard to evaluate the productivity of labourers. Productivity is not just limited to workers' physical and mental labour. However, it also depends on the administration of an organisation, raw materials, energy (such as electricity and gas), and equipment. Therefore, it is not wise to overlook these aspects when considering productivity.¹⁶² Productivity is often seen to accumulate capital. However, it is also important to evaluate business capacity, which depends on the size and frequency of orders.

Thirdly, the MWB must consider socio-economic conditions, such as inflation, while determining the MW. Also, the current and probable future prices of essential goods and services should be taken into account. In addition, salaries should be increased to cope with the rising costs of essential commodities in the face of growing inflation.¹⁶³ A yearly 5% increment is insufficient to cover the hike in commodity prices. In September 2023, Bangladesh's annual inflation rate was 9.63%, and prices for food and non-alcoholic beverages increased by 12.4%, while the routine maintenance of the house increased by 13.5%, which was a slight increase from the previous month. Evidently, this inflation rate negatively impacts the lives of RMG workers, particularly those in lower positions.¹⁶⁴

In 2013, the MWB faced a challenge: they lacked the experience and data to determine the factors that should be considered when setting up the MW in Bangladesh. To address this challenge, the MWB decided to go on a study tour to Cambodia and Vietnam. During the tour, they explored the MW setting approach in these countries to gain insights and determine best practices. Upon comparison, it was evident that the wage fixing system in Cambodia and Vietnam was far different from that of Bangladesh, providing the MWB with valuable knowledge to improve their own approach¹⁶⁵. In Cambodia, MW was fixed by the Labour Advisory Council only for the garments and footwear industry, with wages adjusted annually. In Vietnam, the National Wages Council sets MW for all sectors with four different wage rates for four separate regions, and the MW is revised annually.

¹⁶²Shaheen, M. (2008). State of Minimum Wages in Bangladesh: Problems and Perspectives. Rajshahi University Law Journal, Bangladesh, vol. 5, pp. 167–194.

¹⁶³Ibid

¹⁶⁴tradingeconomics.com. (n.d.). *Bangladesh Inflation Rate MoM*. [online] Available at: <https://tradingeconomics.com/bangladesh/inflation-rate-mom#:~:text=The%20Consumer%20Price%20Index%20in> [Accessed 20 Jul. 2024].

¹⁶⁵Bangladesh Minimum Wages Board returns from study tour to Cambodia and Viet Nam | International Labour Organization. (2013). *ILO, press release*. [online] 7 Oct. Available at: <https://www.ilo.org/resource/news/bangladesh-minimum-wages-board-returns-study-tour-cambodia-and-viet-nam> [Accessed 14 Jun. 2022].

On the contrary, the Bangladesh MWB set MW for 42 separate sectors and revised the MW rate at five-year intervals.¹⁶⁶ Although the MWB in 2013 added a new allowance (food and transport) to increase the gross wage for workers, in 2018, all allowances were set much higher, fixed for all grades. The factors incorporated in section 141 of BLA 2006 are similar to factors stated in Recommendation (No.135) para 2, except for the social security issues.

On the other hand, the EPZ Labour Act 2019 only requires the MWB to consider the minimum wage or salary of workers in similar industries outside the zone, along with other relevant factors. However, as the 2019 act is relatively new, it falls short of providing proper guidelines to the MWB in wage fixing. It is expected that the MW rates for EPZ workers will be fixed in 2023 under this act, and the MWB formed under the 2019 act will depend on the MW declaration outside the EPZ. It can be stated that the absence of clear guidelines on which factors to consider in fixing MW rates in export processing zones under the 2019 act contradicts the objectives of the ILO Convention (No.132). Both the acts mentioned other factors to consider without clarification. Remarkably, the 2019 Act gives power to the BEPZ Authority to decide the method of wage fixation of workers' wages and other benefits.

7. Importance of Effective Implementation and Enforcement of Minimum Wage

Ensuring workers' rights through implementing a minimum wage (MW) is a crucial international system. However, merely setting an MW is not enough. The effectiveness of MW depends on the wage-fixing authority. International regulations mandate a well-balanced formation of the wage board to ensure proper enforcement. Additionally, adequate notification of the MW and regular inspection of factories or establishments are necessary for continual enforcement. Incorporating punishment provisions for non-compliance with the MW into national legislation would be a strong and beneficial approach.

7.1 Minimum Wage Board: Ensuring Fair Wage

The Minimum Wage Board (MWB) is the sole entity in Bangladesh responsible for setting minimum wage rates. It is essential to have a well-structured and impartial board composition to ensure fair and just wages for workers in the RMG industry. Moreover, the composition of the MWB differs between the BLA 2006 and the EPZ Labour Act 2019. In the 2006 Act, the board was composed of six members; however, under the 2019 Act, it has been expanded to

¹⁶⁶[www.ilo.org](https://www.ilo.org/resource/minimum-wage-chart-bangladesh-cambodia-viet-nam). (2013). *Minimum wage chart: Bangladesh, Cambodia & Viet Nam* | International Labour Organization. [online] Available at: <https://www.ilo.org/resource/minimum-wage-chart-bangladesh-cambodia-viet-nam> [Accessed 14 Jun. 2022].

eleven members, including representatives from the government, employers, and workers. According to the ILO Convention (No.131), Article 4¹⁶⁷ guides each member in establishing or maintaining machinery for setting and adjusting minimum wage for groups of workers under Article 1, considering national conditions and requirements. The machinery should involve consultation with representative employers and workers organisations, ensuring that all stakeholders have a say in the process and that their voices are heard. To ensure the machinery functions effectively and in the country's best interests, a competent individual may also be appointed after consultation with relevant employers and workers' organisations in accordance with national law or practice. Further, ILO Recommendation (No.135) para 8¹⁶⁸, countries that have established bodies to advise the competent authority on minimum wage matters or to which the government has delegated the responsibility of minimum wage decisions should involve representative organisations of employers and workers in the operation of minimum wage fixing machinery as stated in paragraph 3 of Article 4. In addition, Recommendation (No.135) para 9¹⁶⁹, qualified independent individuals, such as public officials in industrial relations, economic and social planning or policy-making, should represent the country's general interests in minimum wage determination.

Representatives for employers, workers, and individual members in the MWB are ensured by both legislation in Bangladesh. However, neither act mentions the selection criteria and qualifications for workers and employers' representatives. The workers' representative plays a vital role in wage fixing, as one member represents 4 million workers of the RMG industries. Therefore, the workers' representative must have proper qualifications to argue and uphold the workers' demands during critical bargaining. In some cases, the selection process is disregarded due to differences in opinion among trade unions and federations. As a result, when selection power is transferred to the government or authority, dishonest workers' leaders are often chosen. Union leaders may sometimes prioritise their relationships with employers to benefit themselves, even if it goes against the interests of the workers who elected them. This situation can lead to workers having less bargaining power and enable employers to carry out unethical and illegal actions that can negatively affect their employees' welfare, which is unacceptable. So, the legislation requires the incorporation of new provisions clarifying the workers' and employers' selection process.

¹⁶⁷ Minimum Wage-Fixing Machinery Convention, 1970 (No.131). Article 4.

¹⁶⁸ Minimum Wage Fixing Recommendation, 1970 (No. 135). Para 8.

¹⁶⁹ Ibid, para 9

The 2019 Act has improved the composition of the MWB by adding representatives from the Prime Minister's office, Finance, and the Labor Ministry, which represents an improvement from the MWB formed under the 2006 Act. However, whether the ministers' representatives will support the minimum wage recommendations and workers' rights is uncertain. It is important to note that most RMG workers are women, but unfortunately, they often do not receive maternity benefits in other facilities. To guarantee that female workers' rights are protected, having a female representative on the MWB would be helpful. Therefore, both acts should include a provision to add a female representative to the board.¹⁷⁰ However, both acts comply with the representative requirement of the ILO Convention.

7.2 Notification of Minimum Wage

Notifying RMG employers and workers of minimum wage (MW) rates is an important implementation issue. Workers must be aware of their entitlement to a minimum wage before joining the industry. This knowledge can help them make knowledgeable decisions and understand their rights. According to ILO Convention (No.131) Article 5 and Recommendation (No.135) para (14a), MW rates should be communicated in a language that workers can understand. This will help illiterate workers understand the law's provisions and policies initiated by the government.¹⁷¹

A major issue in Bangladesh is that there is no consistent publicity policy for the minimum wage rates, resulting in a significant number of workers being unaware of them. These rates are only published in the official gazette by the government, under BLA 2006, and are not easily accessible for many workers, especially those who are illiterate. Further, the BLR 2015 added that the government is required to inform owners and workers about the MW rate. Owners must display the MW rate in Bengali in a visible location in the factory, but can also display it in English if necessary. A notice of the determined wage rate and publication date in the gazette must be given to all factories or industry units where the MW rate is applicable and where workers are employed, sections 3-6 BLR 2015¹⁷². Similar approaches are also incorporated in the EPZ Labour Act 2019 and Rules in 2022, where the BEPZA declares the MW rate for RMG workers inside the EPZ in the official gazette.

¹⁷⁰Ibid.

¹⁷¹Minimum Wage-Fixing Machinery Convention, 1970 (No.131). Article 5 and Minimum Wage Fixing Recommendation, 1970 (No.135). Para 14a.

¹⁷² Bangladesh Labour Rule (BLR) 2015, Section 3-6.

However, in Bangladesh, the government should take more steps to ensure that the information about MW rates reaches the workers at the grassroots level rather than only limiting notification to the official gazette. Employers hanging notices about the MW rate in the factory was insufficient to inform uneducated workers. Without understanding the complex grading system, workers in grades 5 to 7 could be misled. According to a survey, exploited garment workers in Bangladesh are mostly uneducated rural women. These women are often exploited due to their lack of training, technical knowledge, and skills.¹⁷³ It is difficult for them to understand the difference between basic and gross wages, which impacts their earnings in terms of increments, overtime, festival bonuses, and maternity payments, as all of these depend on basic wages. For better publicity of the MW rates, factory owners and the government should provide workers with information in simple language. Especially for those unable to read, other communication methods, such as arranging community meetings and creating TV commercials, would be a better way to convey the message to workers. Further, the government could conduct awareness campaigns to educate workers about their minimum wage rights through training sessions, workshops, and informational materials that are accessible and easy to understand. Additionally, encouraging dialogue between workers, employers, and government officials could help identify potential barriers and effective strategies for communicating minimum wage rates.

7.3 Importance of Inspection

To ensure MW enforcement in any establishment, the ILO Recommendation (No 135), para 14 requires the Inspectorate to be accountable for enforcing the legal provisions related to wages as well as conditions of work.¹⁷⁴ The BLA 2006 and EPZ Labour 2019 do not have any specific provision for supervising MW implementation in the establishments. Instead, both acts contain provisions where the government can appoint a chief inspector or other inspectors who ascertain the power of inspection under the Acts to conduct investigations or examinations to ensure proper compliance with any provisions of the acts, rules, regulations, or schemes in respect of any establishment or worker employed therein.¹⁷⁵ In the case of establishments inside EPZ, the inspection should be carried out with the permission of the Executive Chairman¹⁷⁶. In Bangladesh, the Department of Inspection for Factories and Establishments (DIFE) is the

¹⁷³ Kabeer, N. and Mahmud, S. (2004). Globalization, gender and poverty: Bangladeshi women workers in export and local markets. *Journal of International Development*, [online] 16(1), pp.93–109. doi: <https://doi.org/10.1002/jid.1065>.

¹⁷⁴ Minimum Wage Fixing Recommendation, 1970 (No.135). Para 14.

¹⁷⁵ Bangladesh Labour Act 2006 (BLA 2006) section 318, 319.

¹⁷⁶ Bangladesh Export Processing Zone Act 2019 (EPZ Act 2019) Sections 168 and 169.

primary government agency that ensures the proper application of labour laws and labour rules. The primary role of DIFE is to ensure a safe and congenial work environment between workers and employers, implement minimum wage and working hours, conduct regular inspections of factories and establishments, and create awareness-building programs in all sectors of Bangladesh¹⁷⁷. DIFE is responsible for overseeing over 2 million shops, hotels, construction companies, and commercial health service centres, in addition to 242,000 manufacturing units¹⁷⁸.

The department is led by the Inspector General (IG), and in non-compliance with labour laws, they can file a case in the labour court. According to the DIFE report 2021 – 2022, they inspected 3560 RMG factories.¹⁷⁹ The DIFE can notify the factory and establishment if the minimum wage implementation is violated. The EPZ Labour Rules 2022 now incorporate DIFE inspections and a checklist prepared through consultations between DIFE and BEPZA. As of December 2022, the DIFE has inspected 36 factories within EPZs.¹⁸⁰

With the responsibility of overseeing many workplaces, DIFE has a staff of 993 spread across 23 district offices to carry out its work. However, it is broadly recognised that the department is under-equipped to fulfil its duties effectively and adequately. Still, 340 vacant posts need to be fulfilled. Additionally, the exclusive decision-making power of the IG is another working obstacle to this department's ability to perform its responsibilities effectively.¹⁸¹

7.4 Punishment

A practical method for ensuring compliance with MW at the national level is to include provisions for sanctions or penalties in the country's labour laws. ILO Recommendation No. 135 requires adequate penalties for infringement of provisions relating to minimum wage and

¹⁷⁷Golam, K. and Khondker, M. (2021). *EU's EBA & Prospect of GSP+ for Bangladesh Addressing Challenges Related to Labour Laws and Rights*. [online] Available at: <https://cpd.org.bd/resources/2021/07/EBA-and-Prospect-of-GSP-for-Bangladesh.pdf> [Accessed Feb. 2022]. p28

¹⁷⁸Workers Rights Consortium (2020). *To Create a Better Everyday Life for Some People - Worker Rights Consortium*. [online] www.workersrights.org. Available at: <https://www.workersrights.org/research-report/to-create-a-better-everyday-life-for-some-people> [Accessed 14 Jun. 2023].

¹⁷⁹Department of Inspection for Factories and Establishments (DIFE) (2022). *Labour Inspection Report 2021-2022*. [online] Dife.gov.bd. কলকারখানা ও প্রতিষ্ঠান পরিদর্শন অধিদপ্তর. Available at: <https://dife.gov.bd/site/publications/ae252acb-8a05-4d74-bd11-d15f8e01bafa/> [Accessed 2022].

¹⁸⁰ Report by the Government of Bangladesh on progress made on the implementation of the road map taken to address all outstanding issues mentioned in the Article 26 complaint concerning alleged non-observance of Conventions 81, 87 and 98 | International Labour Organization. (2023). [online] www.ilo.org. Available at: https://www.ilo.org/gb/GBSessions/GB347/ins/WCMS_869201/lang--en/index.htm [Accessed 14 Jun. 2023].

¹⁸¹ Golam, K. and Khondker, M. (2021). *EU's EBA & Prospect of GSP+ for Bangladesh Addressing Challenges Related to Labour Laws and Rights*. [online] Available at: <https://cpd.org.bd/resources/2021/07/EBA-and-Prospect-of-GSP-for-Bangladesh.pdf> [Accessed Feb. 2022].

legal requirements or procedures for recovery of underpaid wages¹⁸². In Bangladesh, both labour rules obligate employers or authorised persons not to pay less than the legal minimum wage. In case of underpayment, the worker or employee can claim 50% of the arrears as extra compensation from the authority.¹⁸³ RMG workers outside EPZ can file complaints to DIFE. Upon receiving a complaint, they will inquire and notify employers to comply with the MW rates and 50% compensation. If the employer does not respond to the notification, the DIFE can file a case against the employer in the labour court.

Moreover, under section 289 of the BLA 2006, any employer who fails to comply with this law and pays a worker less than the MW rate may face punishment. The punishment can be imprisonment for up to one year, a fine of up to 5,000 TK or both.¹⁸⁴ RMG workers inside EPZ can complain to the BEPZ Authority and reserve the right to take necessary action against the employer through a written order or direction.

8. EU Directive Insights on Bangladesh's Garment Sector Minimum Wage

As Bangladesh works to improve the living standards of its garment workers and boost economic growth, it could really benefit from looking at successful minimum wage policies from Eastern European countries. These nations, like Poland, Hungary, and Romania, are important players in the garment supply chain and have integrated EU directives into their laws.

The EU directives and the approaches of the following countries to implement a minimum wage can provide some innovative strategies that might be adapted to Bangladesh's unique socio-economic context. By learning from these examples, Bangladesh has the opportunity to create a robust minimum wage framework that meets the needs of its workers while also promoting economic stability and growth.

For instance, Poland's tactic of raising the minimum wage could offer a valuable example for Bangladesh. The method Poland is gradually using to adjust its minimum wage in 2024 takes into account both inflation and economic growth, aiming to support the needs of its workforce. Specifically, the minimum wage is set to increase twice throughout the year. Starting January 1, 2024, the gross minimum wage will go up to PLN 4,242, and the minimum hourly rate for civil law contracts will rise to PLN 27.70. Then, on July 1, 2024, there will be another bump, pushing the minimum gross wage to PLN 4,300 and the hourly rate to PLN 28.10. This careful

¹⁸²Minimum Wage Fixing Recommendation, 1970 (No.135). para 14c.

¹⁷⁸ Bangladesh Labour Rule (BLR) 2015 section 133(12), and Bangladesh Export Processing Zone Rule 2022 (EPZ Rule) section 141 (1-2).

¹⁸⁴ Bangladesh Labour Act (BLA) 2006 Section 289.

and responsive strategy reflects a commitment to balancing economic conditions with social needs.¹⁸⁵ These changes represent a record increase of over 20% compared to 2023, reflecting the government's effort to reduce income inequality and support workers amidst rising living costs.¹⁸⁶

The wage adjustment in Poland, the adjustment of wages is supervised by the Council of Ministers, which relies on guidance from the Ministry of Family, Labour, and Social Policy to inform its decisions. This procedure entails consultations with both employers' associations and trade unions, facilitating the collection of diverse perspectives. By engaging multiple stakeholders, wage adjustments strive to reconcile economic conditions with the imperative of social equity. For the year 2024, approximately 3.6 million employees are anticipated to receive a salary increase, underscoring the beneficial effects of these policies on the community.¹⁸⁷ By adopting a multi-year wage schedule with specific benchmarks for inflation adjustments, industries such as garments could adjust more effectively without experiencing significant disruptions.

Additionally, Romania's strategy of aligning minimum wages with productivity and inflation provides insights for Bangladesh in developing a living wage framework. This approach involves adjusting the minimum wage based on economic indicators like inflation rates and productivity levels. Romania's approach effectively tackles the financial challenges encountered by many workers. This considered methodology could motivate parallel initiatives in Bangladesh, ensuring that wages precisely represent the actual cost of living and fostering a more equitable economy.¹⁸⁸ In January 2023, the government raised the gross minimum wage to RON 3,000(approximately\$650) a month to help workers keep pace with rising living costs.¹⁸⁹

¹⁸⁵ The Chancellery of the Prime Minister. (2023). *Prime Minister Mateusz Morawiecki: from 1 January, the minimum wage will be PLN 4,242 - The Chancellery of the Prime Minister - Gov.pl website*. [online] Available at: <https://www.gov.pl/web/primeminister/prime-minister-mateusz-morawiecki-from-1-january-the-minimum-wage-will-be-pln-4242>.

¹⁸⁶ Ministry of Family, Labour and Social Policy. (2022). *Minimum salary in 2023. The government has taken a decision - Ministry of Family, Labour and Social Policy - Gov.pl website*. [online] Available at: <https://www.gov.pl/web/family/minimum-salary-in-2023-the-government-has-taken-a-decision>.

¹⁸⁷ Ptak, A. (2024). Polish government plans 7.6% minimum wage rise in 2025. *Notes From Poland*. [online] 14 Jun. Available at: <https://notesfrompoland.com/2024/06/14/polish-government-plans-7-6-minimum-wage-rise-in-2025/>.

¹⁸⁸ Iuliane Ernst (2024). EU Directive to push minimum statutory wage up by over 10% in Romania next year. *Romania Insider*. [online] 14 Oct. Available at: <https://www.romania-insider.com/eu-directive-romania-minimum-wage-2025> [Accessed 9 Nov. 2024].

¹⁸⁹ www.eurofound.europa.eu. (n.d.). *Romania: Minimum wage country profile | European Foundation for the Improvement of Living and Working Conditions*. [online] Available at: <https://www.eurofound.europa.eu/en/topic/minimum-wage/romania>.

The Romanian wage policy also considers specific industry needs, such as setting higher wages for sectors like construction, which discourses unique challenges faced by those workers. Regular review of wages ensures that wages remain fair while still supporting a competitive economy¹⁹⁰. This approach could serve as a valuable model for Bangladesh, where sector-specific and urban-rural differentiated minimum wages could help bridge economic gaps between cities like Dhaka and Chittagong and rural areas. By aligning wages with local living costs, this strategy could reduce urban poverty while making it easier for rural employers to thrive. Tailoring wage policies to reflect industry productivity can further enhance competitiveness, ultimately fostering economic growth across various sectors.

Further, Hungary's National Economic and Social Council has recently adopted a collaborative approach to enhance the minimum wage, involving employers, employees, and government representatives. This tripartite strategy ensures that salary determinations are inclusive and take into account key economic factors like inflation and the cost of living. In December 2024, Hungary announced a significant increase in its minimum wage, which will take effect on 1st January 2025. The base monthly minimum wage has been set at HUF 290,800 (approximately USD 794). Additionally, for skilled positions, a higher-tier guaranteed minimum wage has been established at HUF 348,800 (approximately USD 952). This movement reflects Hungary's pledge to encourage skill development and reward educational qualifications.¹⁹¹ Previously in 2024, it was decided that the gross minimum wage was HUF 266,800 (€710)¹⁹², while a higher guaranteed minimum wage of HUF 326,000 (€870).¹⁹³ This applies to positions requiring vocational or secondary education.¹⁹⁴ This approach involves agreements within specific sectors where employers and unions work together to adjust wages according to productivity and the state of the industry. Additionally, any wage increases are connected to inflation and overall economic growth. This helps maintain purchasing power and ensures that wages stay

¹⁹⁰ Soriano, C.V. and Pintar, C.A. (2024). *Towards adequate minimum wages: Fairness and a decent standard of living* | European Foundation for the Improvement of Living and Working Conditions. [online] Europa.eu. Available at: <https://www.eurofound.europa.eu/en/resources/article/2024/towards-adequate-minimum-wages-fairness-and-decent-standard-living> [Accessed 1 Nov. 2024].

¹⁹¹ Edina Pentz (2024). Minimum Wage and Guaranteed Minimum Wage 2025 - BLOG | RSM Hungary. *Www.rsm.hu*. Available at: https://www.rsm.hu/blogs/minimum-wage-and-guaranteed-minimum-wage-2025?utm_source=chatgpt.com [Accessed 2 Jan. 2025].

¹⁹² About Hungary (2023). Hungarian government to raise minimum wage. *Hungarian government to raise minimum wage*. [online] 17 Nov. Available at: <https://abouthungary.hu/news-in-brief/hungarian-government-to-raise-minimum-wage> [Accessed 9 Nov. 2024].

¹⁹³ Europa.eu. (2023). *Hungary: Minimum wage country profile* | European Foundation for the Improvement of Living and Working Conditions. [online] Available at: <https://www.eurofound.europa.eu/en/topic/minimum-wage/hungary> [Accessed 9 Dec. 2024].

¹⁹⁴ RSM Hungary Zrt (2023). Minimum Wage and Guaranteed Minimum Wage in 2024 - BLOG | RSM Hungary. *Www.rsm.hu*. Available at: <https://www.rsm.hu/blog/payroll/minimal-wages-2024> [Accessed 9 Nov. 2024].

in tune with the wider economic landscape.¹⁹⁵ Although geographical differentiation is not fully institutionalised, regional cost-of-living variations are recognised, which could be further developed to reduce urban-rural disparities.¹⁹⁶

The proposed model can be successfully implemented in Bangladesh by establishing sector-specific minimum wages, focusing on industries like textiles and garments, making adjustments according to regional living costs, especially in urban centres. This strategy would enhance market competitiveness while ensuring that workers, particularly those in rural areas, are paid fair wages that meet their needs.

Hungary's approach exemplifies the integration of economic factors with social fairness, facilitating sustainable wage policies. By drawing insights from these examples, Bangladesh can establish a more equitable and balanced wage system that fosters both economic development and the welfare of its workers.

Bangladesh faces significant economic and social challenges that hinder the immediate implementation of various initiatives. The cost of living in Bangladesh is substantially lower than in Hungary, which may initially justify a lower minimum wage. However, the lack of affordable healthcare, social security benefits, and pensions adds to the financial burden on employees. A sudden increase in the minimum wage, without parallel improvements in social infrastructure, could threaten small and medium-sized enterprises (SMEs) in the ready-made garment (RMG) sector, potentially leading to job losses and plant closures.

Conversely, Bangladesh's inadequate regulatory frameworks and under-resourced labour inspection systems often do not effectively tackle non-compliance. Employers in Bangladesh may oppose substantial pay hikes, contending that such measures might diminish their global competitiveness against other low-cost garment-producing countries like Vietnam and Cambodia. The socio-economic structure of Bangladesh's labour force further hinders wage reform.

The frameworks for social dialogue in Poland and Romania illustrate how crucial it is for stakeholders to work together in governance. In Bangladesh, establishing a tripartite council

¹⁹⁵ Budapest Business Journal. (2023). *2024 Minimum Wage Talks 'Going Well'* - Budapest Business Journal. [online] Available at: <https://bbj.hu/economy/statistics/analysis/2024-minimum-wage-talks-going-well/> [Accessed 9 Nov. 2024].

¹⁹⁶ Europa.eu. (2023). *Hungary: Minimum wage country profile* | European Foundation for the Improvement of Living and Working Conditions. [online] Available at: <https://www.eurofound.europa.eu/en/topic/minimum-wage/hungary> .[Accessed 2 Nov. 2024].

that includes government representatives, employers, and labour unions could help build consensus and address disputes effectively. Moreover, the informal economy could benefit significantly from the implementation of digital payroll systems, improved labour inspections, and stricter penalties for non-compliance, like what has been done in Hungary. These actions would serve to bolster enforcement and protect workers' rights.

In addition to wage increases, Poland's complementary social safety nets—such as housing subsidies and healthcare benefits—underscore the need to support low-income workers.¹⁹⁷ Bangladesh could replicate this model by introducing initiatives that provide garment workers with accommodation assistance and subsidised healthcare.

The National Institute of Statistics (NIS) of Romania plays a crucial role in evidence-based policymaking, emphasising the importance of systematic data collection and monitoring. Its mission aligns with improving the national statistical system under the framework of Government Ordinance No. 9/1992. The NIS implements multi-annual programs that meet the requirements of the European Statistical System. These programs focus on enhancing data collection, ensuring consistency, and aligning methodologies across various domains to support informed policymaking. Government decisions and consultations with ministries and stakeholders approve these programs.

Evidence-based policymaking in Romania is noted for its transparency and effectiveness, utilising statistical data to guide policy design, predict outcomes, and assess impacts. This approach fosters better governance by ensuring decisions are grounded in data and effectively address real issues. The integration of statistical data into various stages of policymaking, such as issue recognition and program design, is essential for promoting sustainable development and public accountability.¹⁹⁸

Establishing a national wage monitoring body in Bangladesh presents an opportunity for significant progress. This body could play a crucial role in ensuring that minimum wage policies are aligned with current economic conditions by actively monitoring important factors such as inflation, productivity, and wage disparities.

¹⁹⁷ Ministry of Family and Social Policy. (n.d.). *The minimum salary in 2023 is higher than previously proposed. The government adopted the regulation - Ministry of Family and Social Policy - Gov.pl website.* [online] Available at: <https://www.gov.pl/web/family/the-minimum-salary-in-2023-is-higher-than-previously-proposed-the-government-adopted-the-regulation>.

¹⁹⁸ National Institute of Statistics -Romania Brief description. (n.d.). Available at: <https://ec.europa.eu/eurostat/documents/64157/4372828/RO-description.pdf/4d1cd13c-94bc-4cec-89b8-1a20f1a24ea3> [Accessed 9 Dec. 2024].

Moreover, the government has the potential to enhance the transparency and flexibility of the wage-setting process by collaborating with research institutions for independent evaluations. Such partnerships could provide insightful data and analysis, paving the way for the development of more effective wage policies.

By pursuing these strategies, Bangladesh could work toward creating a sustainable and equitable minimum wage framework that supports worker welfare, alleviates poverty, and strengthens economic competitiveness.

9. Conclusion and Recommendation

The Ready-Made Garment (RMG) industry in Bangladesh has made significant contributions to the country's economic growth and employment generation. However, the industry's reputation and sustainability are marred by concerns about low wages and poor working conditions. It is essential to address these issues to protect RMG workers from poverty. Upon analysis, it is evident that the current minimum wage (MW) system in Bangladesh's RMG industry requires significant improvement. Despite having MW regulations and laws in place, they are insufficient and do not fully comply with international standards. The current system is discriminatory, with two different legislations regulating RMG worker labour rights. Additionally, there are continued gaps between the minimum wage and living costs. Although Bangladesh is a member of the International Labour Organization (ILO) and has ratified eight fundamental conventions, it has not ratified the Minimum Wage Fixing Convention (No.131) and Minimum Wage Fixing Recommendation (No.135).

Moreover, Bangladesh has unequivocally integrated a minimum wage fixing system into the national acts, in line with the ILO Convention (No.135). The BLA 2006 and EPZ Labour Act 2019 have firmly established a minimum wage fixing body, ensuring employers' and workers' robust participation and representation. While the BLA 2006 aligns with the factors outlined in ILO Recommendation (No.135) when determining the minimum wage, the EPZ Labour Act 2019 must address this critical matter.

Therefore, the government of Bangladesh should take the following steps to improve the minimum wage system in the RMG industry:

1. Ratify the ILO Minimum Wage Fixing Convention (No.131) and Minimum Wage Fixing Recommendation (No.135) and ensure full compliance with international standards.
2. Include the concept of a living wage in national legislation. This wage should be sufficient to provide a rational quality of life for workers and their families.

3. Incorporate calculation methods, such as the Anker formula, for determining living costs for RMG workers into national laws. These costs might vary depending on the area, number of family members, and food and non-food costs.
4. Guarantee that future minimum wages are at least close to the cost of living in the country to bridge the gap between the minimum wage and living costs.
5. Increase the number of inspectors and give them more punitive power to monitor and enforce the minimum wage.
6. Impose penalties and sanctions on non-compliant factories and increase fines for the acts. If a factory fails to pay the minimum wage, its operation should cease, and a long imprisonment sanction would be effective.
7. Work to ensure that enterprises can absorb the cost increases related to regular adjustments to the minimum wage by providing tax incentives or other forms of support.
8. Address concerns about competitiveness in the global market by implementing policies that support sustainable and fair-trade practices.
9. The existing minimum wage in the RMG sector may not adequately support workers' basic needs, and there may be inconsistencies in enforcing minimum wage regulations across various sectors and regions. The EPZ Act 2019 establishes a distinct minimum wage for EPZ workers, which could result in wage imbalances and confusion. Consequently, it may be necessary to revise these regulations to guarantee equitable and uniform enforcement of minimum wage rules throughout different sectors and regions. Implementing these recommendations will improve minimum wage regulations in Bangladesh, promoting social justice and economic growth.¹⁹⁹

Table 5
Roadmap for Implementing a Living Wage Framework in Bangladesh

step	Actions	timelines	stakeholders	Expected outcome
1. Initial Assessment	Conducts surveys to identify urban-rural cost-of-living disparities.	6 months	Bangladesh National Bureau of Statistics (BBS), and NGOs	Baseline data for wage adjustment based on actual living costs

¹⁹⁹ Sultana, D.A. (2023). Towards Fair and Reasonable Wages for RMG Workers in Bangladesh: An Analysis of Minimum Wage Regulations and Implementation. *Journal of Law, Policy and Globalization*, [online] 138(0), p.62. Available at: <https://iiste.org/Journals/index.php/JLPG/article/view/61911> [Accessed 17 Feb. 2024].

	Define a living wage threshold for key regions.			
2. Policy design	Draft a living wage framework tied to inflation and productivity.	3 months	Ministry of Labour and Employment (MoLE), ILO, Employers' Association	Thorough policy outline addressing regional and sector-specific elements and realities.
	Include provisions for regional adjustments.			
3. Stakeholder engagements	Establish a triparty council to review and refine the framework	3 months	Labor Unions, Employers, Representative s, Government Officials	Consensus-building and improved policy acceptance among stakeholders.
4 pilot implementation	Consult labour unions and employers about the implementation process.			
	Launch pilot projects in key sectors like garments and urban-rural regions.	1 year	Select Industry Leaders and Research Institutions.	Insights on feasibility and scalability of the living wage framework.
5 Nationwide rollout	Monitor impacts on business and workers.			
	Scale the policy to all sectors and regions with phased wage adjustments	2 years	National Wage Monitoring Body, Labor Inspectors	Nationwide adoption with gradual alignment to living wage standards.
	Provide training to labour inspectors.			
6. Monitoring and Evaluation	Set up an independent wage monitoring body to review the framework annually.	Ongoing	Independent Research Institutions and Policy Analysts	Regular updates to the framework ensure its relevance and effectiveness.
	Adjust wages based on updated cost indices.			

Source: Made by the Author

In summary, aligning Bangladesh's minimum wage system with global standards is beneficial. Still, it requires a comprehensive strategy considering the local cost of living, insufficient social safety nets, and dependence on the RMG sector. Policymakers should balance wage adjustments with investments in social infrastructure, education, and industrial competitiveness to ensure sustainable growth rather than temporary economic fluctuations.

CHAPTER 3

The Legal Framework to Eradicate Gender-Based Discrimination

1 Introduction

Gender-based discrimination (GBD) against women in the workplace has been documented worldwide, and Bangladesh is not an exception to this phenomenon.²⁰⁰ Unfortunately, women often encounter GBD in the workplace, which can make it a challenging environment for them. The impact of this discrimination is significant, hindering progress towards decent work and economic growth. When women face discrimination, harassment, limited career advancement opportunities, and lower wages, it restricts their potential and ultimately limits economic progress.²⁰¹ It is alarming that gender inequality costs the economy billions of dollars in lost GDP. It is essential that we strive towards a fair, safe, and inclusive work environment that empowers women to succeed and contribute to a thriving economy.²⁰²

The working environment is essential for the female workers in Bangladesh, as the working environment has directly impacted the women workers' lives at home, at work and their productivity. The expansion of the RMG industry opens the door for women to enter formal employment for the first time, as 80% of the workforce is women. Where women historically did not work outside their homes. Regarding export earnings, it is worth mentioning that the ready-made garments industry (RMG) is the country's backbone, and the contribution of the women garment workers is undeniable in terms of economic growth.²⁰³

Unfortunately, the working environment of the RMG female workers is not yet entirely decent and dignified in Bangladesh.²⁰⁴ The working conditions of female garment workers in Bangladesh are often violated, leading to a vulnerable condition for these workers.²⁰⁵

²⁰⁰ Haque, M.F., Sarker, Md.A.R., Rahman, M.S. and Rakibuddin, M. (2020). Discrimination of Women in the RMG Sector in Bangladesh. *Journal of Social and Political Sciences*, 3(1). doi: <https://doi.org/10.31014/aior.1991.03.01.152>.

²⁰¹ GGI Insights (n.d.). *Gender Inequality at Work: Impact on Decent Work and Economic Growth*. [online] www.graygroupintl.com. Available at: <https://www.graygroupintl.com/blog/gender-inequality-at-work>.

²⁰² Jain-Chandra, S. (2017). Women, Work, and Economic Growth Leveling the Playing Field. *Chapter 2. Gender Inequality around the World*. [online] www.elibrary.imf.org. International Monetary Fund. Available at: <https://www.elibrary.imf.org/display/book/9781513516103/ch002.xml>.

²⁰³ Haque, M.F., Sarker, Md.A.R., Rahman, M.S. and Rakibuddin, M. (2020). Discrimination of Women at RMG Sector in Bangladesh. *Journal of Social and Political Sciences*, 3(1). doi: <https://doi.org/10.31014/aior.1991.03.01.152>.

²⁰⁴ Khosla, N., 2009. The ready-made garments industry in Bangladesh: A means to reducing gender-based social exclusion of women?. *Journal of International Women's Studies*, 11(1), 289-303.

²⁰⁵ Hillol, Saha. (2023). Rights of the Women Worker of Readymade Garment Industry in Bangladesh: Gaps Between Law and Practice. *International journal of law and society*.6(1), 102-111. <https://doi.org/10.11648/j.ijls.20230601.24>

Violations of their rights include poor working conditions, lack of health and safety measures, low wages²⁰⁶, long working hours, night shifts, inadequate maternity welfare facilities, and difficulty in forming trade unions.²⁰⁷

Along with these problems, female workers apprehend GBD in terms of gender pay gaps, promotion opportunities, and leadership roles.²⁰⁸ Workers inside the EPZs also face similar working conditions, and discrimination against female workers is prevalent, with instances of unequal treatment in terms of promotions and job opportunities and wage gap.²⁰⁹

The RMG industry is dominated mainly by women who require gender-specific facilities to ensure a work-friendly environment. However, the prevalence of weak labour and law enforcement practices has resulted in the persistence of the GBD problem.

This chapter will comprehensively examine the current legislation, rules, and policies aimed at tackling gender inequality and discrimination in the sector. It will also assess the efficacy and implementation of these legislative actions, providing insight into their influence on promoting gender equality and ensuring fair treatment of all workers.

In addition, this chapter examines any difficulties or deficiencies in the legal structure, offering possible paths for development. Individual case studies and real-life examples are analysed to gain an in-depth comprehension of the practical implementation and concrete results of these laws. This critical study evaluates both the achievements and the areas that need more focus, eventually adding to the continuing discussion on gender equality in the Bangladesh RMG business.

2 The root cause of GBD in the RMG industry

Despite this discrimination, there has been a noticeable increase in the number of women participating in the RMG sector in Bangladesh.²¹⁰ This industry has provided an opportunity

²⁰⁶ MD., Basirulla., Farhat, Tasnim. (2023). Nature of Human Rights Violation on Female Garments Workers in Bangladesh. *Khazanah Hukum*, Vol 5, no 1 p 1-17. Available at: <https://doi.org/10.15575/kh.v5i1.22713>

²⁰⁷ Akhter, M., Bhuiyan, M. N., Khan, S., Khan, A. H., Islam, Md. R., Keya, S. M. and Bely, T. (2023) A Study on Contraceptive Practice and Associated Factors among Women Garments Worker. *Scholars international journal of obstetrics and gynecology*, 6(03), pp. 116–123, [online] Available at: <https://doi.org/10.36348/sijog.2023.v06i03.006>.

²⁰⁸ Ali, M.L. and Islam, N., 2017. “Working environment of female readymade garment workers in Bangladesh”. *In Conference: International Academy of Management and Business Conference 2017*.

²⁰⁹ Mawa, B., 2016. *All Stitched up? Labour Process Regimes and Patriarchal Relations amongst Female Garment Workers in Bangladesh* (Doctoral dissertation, University of Leeds).

²¹⁰ Islam, S. (2016). Feminization of Employment and Gender Inequality of Bangladesh Labor Market: The Case of Garment Industries. *Developing Country Studies*, [online] 6(2), p.157. Available at: <https://www.iiste.org/Journals/index.php/DCS/article/view/28632>.

for penurious rural women to improve their socioeconomic circumstances and way of life²¹¹. However, this progress has come with a cost. The female workers in the RMG sector are often vulnerable due to their underprivileged backgrounds, low-income households, and rural locations²¹². They are exploited as a cheap source of labour²¹³, as they are a more subservient, uneducated, and easier to control group than male workers²¹⁴. In the RMG factories, most female workers are between 15 and 30 years old. Despite performing the same work as their male equals, they are not offered the same opportunities for job postings, equal pay, timely payment, and promotion based on their skills and competencies.

Additionally, they face a lack of maternity leave, inadequate healthcare, and poor working conditions. Due to their low skill levels, female workers are often downgraded to subordinate roles, leaving them with few alternative job opportunities and little knowledge of their legal rights. As a result, they are forced to continue in unsatisfactory conditions.²¹⁵

3 Analysis of the gender composition

The analysis of the ILO and other NGO reports enlightens the better understanding of composition in the Bangladesh RMG industry. In 2019, the ILO report on a baseline study on the Bangladesh RMG industries illustrated gender composition. The report states that 61 per cent of the total workforce is women. However, 85 percent perform low-paid tasks requiring low skills, primarily in grades 4 to 7²¹⁶. Only 5.8 per cent of factory owners, 4 per cent of factory managers, and 9 per cent of supervisors are women. Most women work in the swing and finishing section, which requires manual labour. In contrast, men perform cutting, knitting, ironing, and dying, which require technical skills. Salary gaps were found at the supervisor and

²¹¹ Mahmud, S. and Kabeer, N. (2003). Compliance Versus Accountability: Struggles for Dignity and Daily Bread in the Bangladesh Garment Industry. *Bangladesh Development Studies*, 29(3-4), pp.21–46.

²¹²Mustafa, A., M. Saif Islam, Islam, S. and Khatun, M. (2016). Impact of RMG Sector on Livelihood Change of Women Employees of Bangladesh. *Social and economic geography*, 2(1), pp.1–10. doi: <https://doi.org/10.12691/seg-2-1-1>.

²¹³Halim, S. and Kabir, A.H. (2005). Globalization, gender and labour market: Some evidence from RMG sector. *Social Science Review*, 22(1), pp.29–44.

²¹⁴ Mehedi, M., Sikdar, H., Fellow, D.R., Kebangsaan, U., Bangi, M., Malaysia, S. and Sadeka, S. (2014). Socio-Economic Conditions of the Female Garment Workers in the Capital City of Bangladesh. *International Journal of Humanities and Social Science* [online] 4(3). Available at: https://www.ijhssnet.com/journals/Vol_4_No_3_February_2014/17.pdf.

²¹⁵Ali, M.L. and Islam, N. (2017). Working Environment of Female Readymade Garment Workers in Bangladesh. In: *International Academy of Management and Business Conference 2017*. United Arab Emirates.

²¹⁶ Grade 1 includes jobs such as Chief Mechanic, Chief Cutting Master, Chief Quality Controller, and Pattern Master. Grades 3 to 7 consists of positions as Operators, Cutters, Quality Auditor, Marker, Drawing Person, Exposer, Iron Person, and Sample Persons. Grade 3 represents the senior positions, grade 4 as middle (i.e. Operator, Marker), grade 5 as junior, grade 6 as general, and grade 7 as assistant. This is based on the Bangladesh Gazette updated on November 25, 2018, under sections 139 and 140 of the Bangladesh Labour Act, 2006.

senior operator levels. At the supervisor position, salaries, the salary gap was 5 per cent between women and men, and women earned 11 per cent less than men²¹⁷. According to the Better Work report, Men hold the majority of supervisory and management posts, while women have few opportunities to progress in their professions. Regarding promotions inside factories, female RMG workers rarely have equal opportunities. In addition, less than one in 20-line supervisors is a woman, despite the fact that women make up four out of every five production line employees on the sewing line.²¹⁸

In another study conducted by the ILO and UN Women in 2020, it was found that a significant majority of women employed in the RMG sector in Bangladesh are more likely to have their first formal and paid employment opportunities than men. This trend is observed in 95 per cent of women workers as opposed to only 64 per cent of men. Moreover, the research highlights that the education level of women workers plays a crucial role in shaping the gender composition of the RMG sector. On average, 58.6 per cent of women workers have completed their primary education, while 29.1 per cent have had no formal education or have not completed their primary education. These findings are critical in understanding the gender dynamics of the RMG sector in Bangladesh. They can aid in developing policies to promote gender equality and women's empowerment.²¹⁹

Even though women constitute most of the workforce, the literature mentioned above and reports evaluations to provide the main reasons why discrimination exists in the RMG sector are:

- Female labours are from rural areas with underprivileged and poor economic conditions.
- Inadequate or no education level.
- First formal sector job without any skills.
- Lack of knowledge about labour laws and their rights.
- Inadequate collective bargaining capacity.
- Absence of female representatives at the managerial and supervisor levels.

²¹⁷a Improving Working Conditions in the RMG Sector Phase-II: Baseline Study Report (2017). (2019). [online] Dhaka Bangladesh: International Labour Organization(ILO). Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_735614.pdf [Accessed 2 Jun. 2020].

²¹⁸Abu, H. (2021). Better Work Bangladesh Gender Strategy (2020- 2022). [online] *Better Work*. Available at: <https://betterwork.org/better-work-bangladesh-gender-strategy-2020-2022/> [Accessed Mar. 2023].

²¹⁹Matsuura, A. (2020). Understanding the Gender Composition and Experience of Ready-Made Garment (RMG) Workers in Bangladesh. [online] *International Labour Organization (ILO)* 2020. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_754669.pdf.

4 International and National Legal Framework

Eliminating GBD from the workplace is fundamental to human and labour rights. The Universal Declaration of Human Rights (UDHR), which has since served as one of the cornerstones of human rights, recognised gender equality as a fundamental right. The UDHR is rooted in the premise that all individuals are born with equal dignity and are entitled to enjoy their rights and freedoms without discrimination.²²⁰ Its significance lies in its commitment to promoting and protecting every individual's human rights, irrespective of ethnicity, race, gender, or any other characteristic.²²¹

Since its establishment in 1919, the ILO has been dedicated to promoting equality and non-discrimination in workplaces worldwide. To this end, the ILO has introduced four fundamental conventions and recommendations, providing a comprehensive and internationally recognised standard for member states to follow. The Equal Remuneration Convention of 1951 (No.100), hereafter referred to as Convention 100, is the first international tool to combat workplace discrimination. The objective of this convention was to establish that women and men should receive equal pay for work of equal value, Article 1(2).²²² Equal pay for work of equal value is a crucial concept that helps eliminate discrimination and promote equality in the workplace. It ensures that both men and women receive fair compensation for their work, covering cases where individuals perform different work but of equal value. Women often perform different jobs, which tend to be undervalued, and implementing equal pay for work of equal value helps address the gender pay gap, promoting gender equality in the workforce. It was a significant step towards achieving broader societal equity, as differences in pay are one of the most apparent forms of discrimination.²²³ It is worth noting that the international declaration of UDHR Article 23(2-3) recognises equal payment as a human right enshrined in international law. It is incumbent upon every nation to ensure that individuals receive just and favourable remuneration that guarantees a standard of living that is consistent with human dignity. This includes the provision of social protection measures where necessary. Governments and employers alike must recognise and uphold this right to ensure that workers are treated fairly and equitably, regardless of their gender, race, or other personal characteristics.²²⁴

²²⁰ The Universal Declaration of Human Rights (UDHR), Article 1. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

²²¹ The Universal Declaration of Human Rights (UDHR). Article 2

²²² Equal Remuneration Convention, 1951 (No. 100) (C 100).

²²³ Martin, O., Shauna, O. and Manuela, T. (2013). Equal Pay - An introductory guide | *International Labour Organization*. [online] www.ilo.org. Geneva: ILO, 2013.P8 Available at: <https://www.ilo.org/publications/equal-pay-introductory-guide-0>.

²²⁴ The Universal Declaration of Human Rights (UDHR), Article 2.

Later, in 1958, the ILO introduced the Discrimination (Employment and Occupation) Convention (No. 111) along with Recommendation (No.111), hereafter referred to as (Convention 111 and Recommendation 111). It is a vital tool that provides a comprehensive framework to tackle discrimination in the workplace and promote equality for all workers. The Convention 111 ensures that every individual, regardless of race, colour, sex, religion, political opinion, national extraction, or social origin, is treated fairly and given equal opportunities in employment and occupation.²²⁵ Recommendation 111 accompanying Convention 111 highlights the importance of creating a national policy to prevent discrimination in employment and occupation, emphasising principles such as equal treatment and equal pay for all employees.

Further, to promote gender equality and ensure a safe and non-discriminatory workplace for women, the ILO has introduced several conventions and recommendations. These include the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165) from 1981, hereafter referred to as (Convention 156 and Recommendation 165), as well as the Maternity Protection Convention (No. 183) and Recommendation (No. 191) from 2000, hereafter referred to as (Convention183 and Recommendation191). These rights were integrated into the ILO Declaration on Fundamental Principles and Rights at Work in 1998; it requires all its member States to uphold and promote fundamental rights, such as eliminating discrimination in employment and occupation, regardless of whether they have ratified relevant Conventions.²²⁶ ILO also recognised gender equality rights in the Decent Work Agenda in 2008.²²⁷ Despite these national and international standards, a gap remains between workers' rights and working conditions. Therefore, it is crucial to implement these rights to ensure that all workers, including those in the informal sector and care economy, have access to fair and safe working environments.

Bangladesh, as a member of the United Nations, has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Bangladesh has adopted a range of legal frameworks to promote gender equality and protect women from workplace discrimination. The constitution of Bangladesh aspires to gender equality. Article 28 enshrines

²²⁵ Discrimination (Employment and Occupation) Convention (No. 111)

²²⁶ Trebilcock, A. (2023). 2022 Amendments to the ILO Declaration on Fundamental Principles and Rights at Work. *International Legal Materials*, 62(4), pp.605–610. <https://doi.org/10.1017/ilm.2023.7>.

²²⁷ www.ilo.org. (2007). Toolkit for Mainstreaming Employment and Decent Work | *International Labour Organization*. [online] Available at: <https://www.ilo.org/publications/toolkit-mainstreaming-employment-and-decent-work>.

the principle of equality and non-discrimination, in consort with Article 28(2) explicitly stating that "Women shall enjoy the same rights as males in all spheres of the state and the community." The constitution added Article 28(4) to make the position more compelling: "Nothing in this article prevents the State from creating special provisions for women, children, or the advancement of any underprivileged group of citizens". Also, Article 19(3) states, "As a fundamental tenet of public policy, the State shall endeavour to promote equal opportunity and involvement of women in all aspects of national life"²²⁸. Bangladesh, as a member of the ILO, ratified Convention 100 on June 28 1998, and Convention 111 on June 22, 1972.

In Bangladesh, labour acts have been established to promote a non-discriminatory and gender-equal workplace. To achieve this goal, these acts have incorporated provisions to ensure equal payments for both men and women and provisions for payment on time. Additionally, gender-segregated facilitated provisions have been made to create a more comfortable working environment for female workers, irrespective of their positions. These measures aim to create a fair and equal workplace for all employees, regardless of gender.

5 Wage and payments

The issue of low wages and the gender gap has been a concern in RMG industries. Equal pay is a fundamental human right that is recognised internationally. Remuneration, including basic wages and other monetary benefits, is crucial for female employees. Overtime pay, festival bonuses, and timely payment of salaries are important for the well-being and satisfaction of female workers. In the Bangladesh Labour Act 2006 (BLA) defines "wages" in section 2(45)²²⁹, and section 121²³⁰ "Makes every employer responsible for paying workers employed by them". Section 123(1) states that "the wages of a worker shall be paid before the expiry of the seventh working day following the last day of the wage period in respect of which the wages are payable."²³¹In the Bangladesh EPZ Labour Act 2019, section 2(34) defines "wage." Section 26 states the wage period, and sections 55, 56, and 57 state employers' responsibility and payment time²³², similar to the BLA 2006.

²²⁸ Constitution of the People's Republic of Bangladesh (Bangladesh 4 November 1972) Article 19(3),28(2)(3) [available at: <https://www.refworld.org/docid/3ae6b5684.html>] [accessed 28 December 2021]

²²⁹Bangladesh Labour Act (BAL) 2006, Section2(45) "wage" as all remunerations expressed in terms of taka or capable of being so expressed, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a worker for his employment or of work done in such employment, and includes any other additional remuneration of the aforesaid nature.

²³⁰ Bangladesh Labour Act (BLA)2006, Section 121

²³¹ Bangladesh Labour Act (BLA)2006, Section 123(1)(2)

²³²Bangladesh (EPZ) Labour act 2019 Section 2(34),26,55,56,57. <http://www.bepza.gov.bd/content/epz-labor-law>

The topic of minimum wage was explored in Chapter One, where it was noted that the implementation of the BLA 2006 ensured that RMG workers were guaranteed a minimum wage. Additionally, following Convention 100, the BLA 2006 mandated that the MWB adhere to section 345, which stipulates that "no discrimination based on sex shall be taken into account in determining wages or establishing minimum rates of wage for any worker."²³³ Section 197 of the EPZ Labour Act 2019 imposes the same obligation on the EPZ wage board.²³⁴

However, the situation of wage discrimination changed after the enactment of the BLA 2006, which established a fixed minimum wage. Before the act, women workers outside EPZ factories were paid on piece rates or even paid less than men based on productivity and skill.

5.1 Bangladesh's RMG Sector Wage and Payment Practices

The reports of Karnojibi Nari (KN), a non-profit and non-governmental organisation that advocates for women's rights in Bangladesh, were analysed. The primary objective of this analysis was to gain valuable insights into the wage gaps and payment practices commonly observed in the RMG sector. KN conducted three surveys involving 3000 female workers from 300 factories in three different zones (Dhaka, Narayanganj, and Gazipur) in December 2018, March 2019, and April 2019. In addition to this, a personal survey was conducted using a semi-structured questionnaire of 100 female workers from five different factories in the Badda area of Dhaka. Upon examining the survey results, Table 6 below illustrates the wage and benefit payment situation in the RMG sector.

Table 6
Wage and benefit payments

KormojibiNari	December 2018 ²³⁵	March 2019 ²³⁶	April 2019 ²³⁷	personal ²³⁸ survey
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²³³ Bangladesh Labour Act (BAL) 2006, Section 345.

²³⁴ Export Processing Zone Labour Act 2019, section 197.

²³⁵ MONITORING WORK AND WORKING CONDITIONS OF WOMEN EMPLOYED IN THE READYMADE GARMENT INDUSTRIES OF BANGLADESH. (2018). Available at: <https://www.karmojibinari.org/wp-content/uploads/2019/02/RMG-FactSheet2019.pdf> [Accessed Jan. 2020].

²³⁶ MONITORING WORK AND WORKING CONDITION OF WOMEN EMPLOYED IN READY-MADE GARMENT INDUSTRIES OF BANGLADESH MONITORING WORK AND WORKING CONDITION OF WOMEN EMPLOYED IN READY-MADE GARMENT INDUSTRIES OF BANGLADESH. (March 2019). [online] Karmojibi Nari. Available at: <https://www.karmojibinari.org/wp-content/uploads/2019/04/factsheetMarch19EN.pdf> [Accessed 2029].

²³⁷ MONITORING WORK AND WORKING CONDITION OF WOMEN EMPLOYED IN READY-MADE GARMENT INDUSTRIES OF BANGLADESH. (April 2019). [online] Karmojibi Nari. Available at: <https://www.karmojibinari.org/wp-content/uploads/2019/07/Third-Fact-sheet.pdf> [Accessed 2020].

²³⁸ Information collection by a personal interview with the female workers.

Payment on time	84.2%	74.7%	77.4%	82%
Payment due	16%	16.5%	22.6%	12%
Festival bonus	85.3%	84.2%	83.1%	91%

Source: Made by the Author

The current wage structure in place ensures that female workers in lower grades are not subjected to wage discrimination. While they may not receive higher wages, they are guaranteed to be paid the legal minimum wage, and the wage gap persists at a higher level. In the industry, along with low wages, late payment is one of the significant issues.

Further, Table 6 indicates that payments were made on time, and the festive bonus payment is satisfactory. The factory owners have implemented on-time payment provisions of the Labour Act, a positive step towards ensuring fair and timely payment to workers. Before the BLA 2006, the late payment rate was higher. According to the field survey by Begum et al. (2008), 72.23% of female workers said they received payment after the first week, and 6.66% stated after the second week.²³⁹

Additionally, another survey conducted by Islam and Ahmed in 2016 on 180 workers, both inside and outside the EPZ, found that 54.44 per cent of workers in Bangladesh's EPZ garment factories were highly satisfied with their wage payments, while 37.78 per cent were satisfied. In contrast, 30.00 per cent of workers outside EPZ factories had a neutral opinion, and 23.88 per cent were satisfied with their wage policy in the RMG industry. That means workers in the RMG sector in Bangladesh who work inside EPZ garment factories are generally more satisfied with their wage payment compared to workers outside EPZ garment factories.²⁴⁰

In another survey by Saha in 2023, 200 workers in Chittagong outside EPZ reported that 69.5 percent of the respondents reported being given regular wages. On the other hand, 30.5 percent of the respondents answered that they were not given wages regularly.²⁴¹

²³⁹ Begum, F., Ali, R., Hossain, M. and Shahid, S.B. (2010). Harassment of women garment workers in Bangladesh. *Journal of the Bangladesh Agricultural University*, 8(2), pp.291–296. <https://doi.org/10.3329/jbau.v8i2.7940>.

²⁴⁰ Islam, Mohd.S. and Ahmad, Md.H. (2016). Impact of Dissimilar Laws and Rules on Worker's Satisfaction in Ready-Made Garments of Bangladesh: A Comparative Study between the Factories Inside EPZ and Outside EPZ. *SSRN Electronic Journal*, 6(3). <https://doi.org/10.2139/ssrn.2849314>.

²⁴¹ Saha, H. (2023). Rights of the Women Worker of Readymade Garment Industry in Bangladesh: Gaps Between Law and Practice. *International Journal of Law and Society* 6(1) pp.102-111. <https://doi.org/10.11648/j.ijls.20230601.24>

5.2 Equal Wage Regulation: Compliance with ILO Standard

In comparison, the objective of Convention 100 was to ensure that men and women workers receive equal pay for work of equal value, without any discrimination based on sex, Article 2²⁴². Additionally, Convention 111 requires an individual to be treated equally and given equal employment and occupation opportunities regardless of sex or gender. Member states were required to incorporate this convention through national laws or regulations. It is noteworthy that the BLA 2006 included the phrase “discrimination based on sex”, and section 197 of the EPZ Labour Act 2019 states, “discrimination shall not be made in this respect on the ground of being male or female” in wage fixing, which is in line with the conventions. However, acts fail to incorporate other discrimination factors like religion, race, caste, sex, or place of birth. Acts do not fully align with Convention 111, as other factors are not mentioned, which provides partial protection to the workers. Nevertheless, the strong constitutional guidelines against discrimination serve as a positive framework for ensuring a fair and just work environment in Bangladesh. According to the 2023 Women, Business and the Law report, 2.4 billion working-age women in certain economies lack the same rights as men, indicating a lack of global gender equality.²⁴³

5.3 Legislative Gaps and Recommendations

Both acts mentioned earlier protect workers against gender discrimination in wage fixation. Additionally, employers are obliged to make timely payments to their employees. If there is a delay in payment, both acts grant legislative power to employees to protect their rights. According to BLA 2006, if an employee experiences a delay in receiving their wages or their wages are deducted, they have the right to apply to the Labour Court to recover the unpaid or deducted wages. The application must be submitted within 12 months of the deduction date or when wages became due. If the applicant can provide a valid reason for not applying within this timeframe, they may still present it after the expiry period.

The Labour Court will provide a chance to the applicant and the employer or any other person responsible for the payment of wages to be heard and present any necessary evidence. The Court may direct the employer or the responsible person to pay the deducted or delayed wages.

²⁴² ILO Convention No 100. Equal Remuneration

²⁴³ Bank, W. (2023). Women, Business and the Law 2023. [online] *Coilink.org*. >. Available at: <https://coilink.org/20.500.12592/wnc81m> [Accessed 2024].

However, any order given under this section shall not affect any punitive measures taken against the employer or the responsible person under this Act.

Additionally, the Labour Court may direct the employer or responsible person to pay the applicant 25% of the wages as compensation. However, if the delay in payment was due to a bona fide error or dispute, the inability of the responsible person to make payment in due time, emergent situations, exceptional circumstances, or the employee's failure to take wages or apply for them, no compensation will be paid. In case the Labour Court finds the application to be vexatious or malicious, it may impose a fine of 200tk on the applicant, section 132(1-7) of BLA 2006.²⁴⁴

Further, under section 133, an applicant is not responsible for any court fees other than the fees for summons if they are applying. If the applicant wins the case, the Labour Court will calculate the court fees for the case as if it were a civil suit for recovery of money. The employer or person responsible for payment of wages will then be directed to pay the fees. If the fees are not paid within the specified time, they become recoverable as a public demand. Additionally, a single application may be submitted under section 134 on behalf of multiple workers who were not paid or had their wages deducted, and the Labour Court may treat separate applications as a single one if they belong to the same group of workers in the same establishment. Compensation will be payable under section 132(5) in such cases.²⁴⁵

The workers inside EPZs have a similar right to file a complaint. If a worker's wages are deducted or payment is delayed, the affected individual or legal representative can seek redress from the EPZ Labour Court. Under the relevant provisions, the court must adhere to prescribed regulations regarding the time, location, and compensation award, as per section 60 of the EPZ Labour Act 2019.

Under section 61, a single application has the potential to represent all or multiple workers who have had their wages deducted or not paid, and the EPZ Labour Court reserves the right to combine separate applications into one and apply the provisions of sub-section (1).²⁴⁶

Regarding appeals, in the event of an order from the EPZ Labour Court under section 60, an appeal may be lodged with the EPZ Labour Appellate Tribunal within 30 days of the order's issuance. Further appeal-related provisions are enshrined in the relevant rules.

²⁴⁴ Bangladesh Labour Act 2006 section 132(1-7)

²⁴⁵ Bangladesh Labour Act 2006 section 133

²⁴⁶ Export Processing Zone (EPZ) Labour Act 2019. Section 60 and 61.

In cases where the EPZ Labour Court or the EPZ Labour Appellate Tribunal is convinced that an employer or any other responsible party is likely to evade payment, the court may attach their assets to enforce payment of the sum stipulated. It is noteworthy that the attachment under sub-section (1) is governed by the provisions of the Code of Civil Procedure concerning property attachment before trial.

Some differences can be observed in both acts. Under the BLA 2006, an employee has 12 months to apply to the Labour Court for the recovery of unpaid or deducted wages.

In contrast, under the EPZ Labour Act, an employee has only 30 days to appeal to the EPZ Labour Appellate Tribunal. This means that workers in EPZs have a shorter window of time to appeal unpaid wages.

Moreover, the compensation amount also differs between the two acts. Under the BLA 2006, if an employer fails to pay wages on time or deducts a part of the employee's salary without justification, the compensation amount is 25% of the wages. However, under the EPZ Labour Act, the compensation amount is the sum stipulated. It means that workers in EPZs may receive a higher or lower compensation amount, depending on their situation. It is important to note that the BLA does not impose any punishments on employers for their actions. Rather, it places the onus of paying fines on workers in the event of ambiguous claims.

Understanding that payment delays are rampant in the garment industry is crucial. Factory management often delays payments until the end of the first or second week. If there are frequent delays, workers must take legal action. However, the legal process is complicated, and the 200-take fine can be a significant burden, hindering their ability to claim their late payments. Regrettably, female workers in the garment industry frequently remain silent and are unwilling to file lawsuits out of fear of losing their jobs.

The implementation of equitable and punctual payment for female workers within the industry has the potential to enhance productivity and positively impact production significantly. It is paramount to ensure that this demographic receives remuneration that is commensurate with their male counterparts while also ensuring that it is distributed on time. Such measures will likely promote better motivation, retention, and performance among female employees, promoting a more effective and profitable enterprise. Consequently, it is recommended that organisations prioritise gender equality and equitable compensation policies to bolster their operational performance and achieve sustainable growth.

6 EU Equal Pay Directives: Impact on Bangladesh RMG sector

Equal pay is a fundamental aspect of gender equality policies in the European Union, which has created a detailed legal framework to guarantee gender pay equality. This is primarily achieved through the Treaty on the Functioning of the European Union (TFEU) and directives such as the Equal Pay Directive (Directive 2006/54/EC)²⁴⁷, and the Recast Directive (Directive 2006/54/EC)²⁴⁸ and the Pay Transparency Directive (Directive 2023/970)²⁴⁹. According to Article 157 of the Treaty on the Functioning of the European Union (TFEU)²⁵⁰, member states are required to provide equal pay for equal work or work of equal value. The 2023 Pay Transparency Directive (Directive 2023/970), which came into force on 23 June 2023, marks a significant step by the EU towards addressing gender pay gaps through enhanced transparency and accountability. This directive requires employers to provide clear and accessible information about salary ranges for job postings and internal roles. This ensures that employees understand how their pay is determined in relation to their colleagues. Employers with more than 250 employees must report their gender pay gaps annually and conduct detailed assessments of their pay structures to identify any discrepancies in pay for work of equal value. Smaller organisations are required to engage in periodic reporting to promote wider compliance with these standards. The directive also empowers employees by granting them the right to access information about pay levels and gender-based pay differences. Additionally, it prohibits pay secrecy clauses that prevent workers from discussing or comparing salaries.²⁵¹

Moreover, the directive establishes a robust enforcement mechanism, including the right to compensation for workers facing pay discrimination and sanctions for employers who fail to comply. This legislative framework not only aims to reduce gender pay disparities across the EU but also fosters a culture of openness and fairness in the workplace.²⁵²

²⁴⁷ Legislation.gov.uk. (2020). *Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)*. [online] Available at: <https://www.legislation.gov.uk/eudr/2006/54>.

²⁴⁸ osha.europa.eu. (n.d.). *Directive 2006/54/EC - equal opportunities - Safety and health at work - EU-OSHA*. [online] Available at: <https://osha.europa.eu/en/legislation/directives/council-directive-2006-54-ec>. [Accessed 11 Nov. 2024].

²⁴⁹ Europa.eu. (2023a). *Directive - 2023/970 - EN - EUR-Lex*. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2023/970/oj/eng> [Accessed 11 Nov. 2024].

²⁵⁰ Treaty on the Functioning of the European Union (1958), Article 157. Available at <https://eur-lex.europa.eu/EN/legal-content/summary/treaty-on-the-functioning-of-the-european-union.html>

²⁵¹ Europa.eu. (2023a). *Directive - 2023/970 - EN - EUR-Lex*. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2023/970/oj/eng> [Accessed 11 Nov. 2024].

²⁵² Ibid

EU member states must integrate EU directives and regulations into their labour laws, leading both Western and Eastern European countries to adopt these measures in their legislation. For instance, France mandates that companies with more than 50 employees disclose gender pay gap data annually and imposes penalties on those that do not rectify significant disparities, as per Law No. 2018-771 of 5th September 2018.²⁵³

Likewise, Germany's Wage Transparency Act of 2017,²⁵⁴ Allows employees to request information regarding salary structures, further supporting the EU's initiative for accountability. Institutional frameworks, including national equality bodies and legal remedies for victims of pay discrimination, reinforce these actions.

Eastern European nations, particularly those that became EU members after 2004, have worked to align their laws with EU directives regarding equal pay. Poland has integrated the EU's principles into its Labour Code, guaranteeing equal remuneration for work of equal value as stipulated in the Polish Labour Code of 26th June 1974.²⁵⁵

To foster pay equity, employers are required to gather and analyse gender-disaggregated pay data and ensure transparency by publicly sharing pay ranges. While pay audits may not be legally mandated, they are advised as a method for assessing pay differences based on objective criteria. Compliance is overseen by government agencies, which also investigate allegations of discrimination.²⁵⁶

Romania's equal pay legislation is rooted in its alignment with EU directives, particularly the Recast Directive (Directive 2006/54/EC). The cornerstone of its legal framework is the Labour Code and the Anti-Discrimination Law (Government Ordinance No. 137/2000)²⁵⁷, which explicitly prohibits gender-based pay discrimination and mandates equal remuneration for equal work or work of equal value. Employers are required to provide pay transparency through

²⁵³ Ogletree Deakins. (2019). *France: New Rules on Gender Pay Equality*. [online] Available at: <https://ogletree.com/international-employment-update/articles/june-2019/france/2019-05-15/france-new-rules-on-gender-pay-equality/>.

²⁵⁴ *The Act to Promote Transparency in Wage Structures among Women and Men (Transparency in Wage Structures Act in Germany 2017) (Entgelttransparenzgesetz, EntgTranspG)*. www.gesetze-im-internet.de. [online] Available at: https://www.gesetze-im-internet.de/englisch_entgtranspg/englisch_entgtranspg.html [Accessed 4 Oct. 2024].

²⁵⁵ Polish Labour Code of the 26 June 1974, Article 18(1). Available at: <https://www.gov.pl/web/family/right-to-equal-remuneration>

²⁵⁶ Polish Labour Code of the 26 June 1974, Article 18(3c). Available at: <https://natlex.ilo.org/dyn/natlex2/natlex2/files/download/45181/The-Labour-Code%20consolidated%201997.pdf>

²⁵⁷ *Anti-Discrimination Laws in Romania (Government Ordinance No. 137/2000) amended in 2006 by Law no. 324 and in 2003 by Government Decision 1279*. Available at: https://migrant-integration.ec.europa.eu/library-document/romania-government-ordinance-no-1372000-preventing-and-sanctioning-all-forms_en.

annual reporting of wage statistics and conduct internal audits if significant disparities are identified²⁵⁸. Enforcement is overseen by the National Council for Combating Discrimination (CNCD), which has the authority to investigate complaints, impose fines, and recommend corrective actions. Remedies for victims of pay discrimination include financial compensation for lost wages, legal reinstatement in cases of wrongful termination, and adjustments to pay structures to ensure parity²⁵⁹. In addition to legal enforcement, Romania has developed a public reporting mechanism that pressures employers to comply by exposing wage gaps to public scrutiny. This dual approach of legal penalties and reputational accountability ensures greater adherence to equal pay principles, though challenges remain in smaller, informal sectors where enforcement is weaker.

Aside from Poland and Romania, Hungary's equal pay legislation aligns with the Treaty on the Functioning of the European Union (TFEU) and the Recast Directive (Directive 2006/54/EC), which ensures equal pay under its Labour law. Article 12 of the Hungarian Labour Code, Act I of 2012, prohibits gender-based discrimination, ensuring equal pay for equivalent work or effort.²⁶⁰ Employers are required to uphold fair pay practices, and the Labour Code's anti-discrimination regulations should be interpreted in conjunction with the Equal Treatment Act of 2003, which encompasses preventing indirect discrimination, such as unequal access to bonuses, benefits, or promotions. A separate anti-discrimination body, the Equal Treatment Authority (ETA), plays a crucial role in monitoring compliance with these laws and addressing violations. The ETA reviews complaints regarding gender pay discrimination and has the authority to impose fines on companies for failing to comply. Large companies are encouraged to conduct self-assessments of their pay practices to identify and correct any gender pay gaps. However, on December 1, 2020, the Hungarian Parliament resolved that starting January 1, 2021, the Equal Treatment Authority (ETA) would be dismantled. Its responsibilities, including legal safeguards against racial, gender, and other forms of discrimination, will be reassigned to the Commissioner for Fundamental Rights.²⁶¹

²⁵⁸ L&E Global. (2024). 04. *Anti-Discrimination Laws*. [online] Available at: <https://leglobal.law/countries/romania/employment-law/employment-law-overview-romania/04-anti-discrimination-laws/>.

²⁵⁹ European Roma Rights Centre. (2024). *Romanian National Council for Combating Discrimination Ineffective (2005)*. [online] Available at: <https://www.errc.org/press-releases/romanian-national-council-for-combating-discrimination-ineffective> [Accessed 1 Jan. 2025].

²⁶⁰ Hungary's Act No. 2012/I (the 'Labour Code') and Act No. 2003/CXXV. Section 12 [online] Available at: https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=68657.

²⁶¹ Partners, K.C.G. (2020). The Equal Treatment Authority Will Be Abolished from 1 January 2021. *CEE Legal Matters*. [online] 12 Spring. Available at: <https://ceelegalmatters.com/hungary/15413-the-equal-treatment-authority-will-be-abolished-from-1-january-2021> [Accessed 2 Dec. 2024].

Although Hungary has not established a formal pay transparency framework, several progressive enterprises voluntarily provide salary data. Remedies for gender pay discrimination include monetary compensation, retroactive salary changes, and non-monetary restitution. The government partners with companies via awareness campaigns and seminars to promote gender-sensitive employment practices.

To address gender, pay gaps in Bangladesh's ready-made garment (RMG) sector, it is essential to create a practical strategy and implement legislative reforms inspired by successful EU directives. Countries like Poland, Hungary, and Romania have seen certain benefits from such incorporation. Although EU directives provide a strong framework for tackling pay inequities, their application greatly differs among Eastern European nations, in contrast to EU member states that enjoy institutional assistance and are bound to comply with these directives.

Legislative alignment with EU standards has prompted advancements in Eastern Europe, with countries narrowing gender pay gaps. Conversely, Bangladesh could implement comparable transparency initiatives to promote equal pay.

➤ **Incorporating comprehensive pay transparency measures**

Countries like **Poland** and **Romania** have integrated these measures into their labour laws, requiring companies to disclose wage statistics and conduct equal pay audits regularly. For instance, mandating annual pay gap audits in garment factories could identify discrepancies and encourage employees to comply with legal standards similar to those in Poland.

➤ **Enhancing Enforcement Mechanism**

To improve enforcement measures, Poland's equal pay law includes local labor inspection agencies. Romania employs discrimination authorities to tackle the gender pay gap. Meanwhile, Bangladesh can enhance its anti-discrimination efforts by bolstering the Department of Inspection for Factories and Establishments (DIFE). This may involve providing training for inspectors on gender-sensitive topics and empowering union representatives to promote fair pay during collective bargaining negotiations.

➤ **Encouraging sector-specific legal reforms**

In contrast to Hungary's generalised labour laws, Bangladesh's RMG sector could improve through targeted legislation that ensures minimum wage parity and regular wage assessments. While Romania promotes pay equality in specific sectors with government incentives and penalties, Bangladesh could implement sector-specific wage boards (which already exist under

the law) involving RMG stakeholders to enhance and enforce gender pay parity in garment factories.

➤ **Establishment of Gender Equality Bodies**

Hungary enhances its equal pay laws through collaboration with the National Commissioner for Fundamental Rights, which offers legal support to workers. In contrast, Bangladesh could benefit from creating an independent Gender Equality Authority tasked with investigating wage complaints in the ready-made garment sector, raising awareness and enforcing labour laws. This authority would ideally collaborate with international organisations such as the International Labour Organization (ILO) to align with global standards.

➤ **Leveraging International Trade and Partnerships**

Countries like Romania link compliance with equal pay laws to gaining access to foreign trade opportunities within EU agreements. Similarly, Bangladesh may seek trade deals, particularly under the EU's Generalised Scheme of Preferences (GSP+), to tie favourable export conditions to maintaining female pay equality. This approach would encourage factory owners to prioritise legal compliance as a requirement for market access.

➤ **Empowering Workers Through Training and Awareness**

Raising public awareness has been essential for shrinking gender wage gaps in Eastern Europe. In Hungary, government-supported training programs inform the workforce about labour rights. Bangladesh could implement similar programs for RMG workers, focusing on their rights related to fair wages, grievance procedures, and collective bargaining. Collaborating with local NGOs and international organisations could enhance these efforts.

By implementing measures drawn from EU directives and their applications in Poland, Romania, and Hungary, along with the previously mentioned recommendations, Bangladesh could bridge the gender disparities present in the RMG sector. As per gender pay gap statistics, Poland has a gender pay gap of around 8.5%, Romania's is about 12%, and Hungary's stands at approximately 17%. This challenge stems from a lack of resources and personnel to enforce the legislation.²⁶²

²⁶² ec.europa.eu. (2022). *Gender pay gap statistics 2022*. [online] Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Gender_pay_gap_statistics#Possible_causes_of_the_unadjusted_gender_pay_gap.

7 Maternity Protection

In its 2023 survey report on gender equality, the ILO identified instances of discrimination outlined in Convention 111, which may manifest in direct and indirect forms. Direct discrimination refers to situations where an individual is treated unfavourably due to one or more prohibited grounds, explicitly or implicitly. Discrimination based on maternity, including pregnancy and breastfeeding, is one of the primary forms of direct discrimination based on sex.²⁶³

7.1 Maternity Protection: International Standards

Maternity protection is globally recognised as the most significant labour and human right. It is imperative to guarantee maternity protection in the workplace. It has two objectives: first, to protect the health of the mother and newborn child, and second, to support women in successfully managing their reproductive and professional lives. Without any discrimination at the workplace because of maternity leave, providing job security, cash benefits during leave, unfair dismissal and assurance to return to the job²⁶⁴. Many Global human rights declarations recognise maternity protection and include provisions related to it, like the Universal Declaration of Human Rights (UDHR) 1948, Article 25 (2), "motherhood and childhood are entitled to special care and assistance"²⁶⁵. The International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, Article 10 (2) "Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such a period, mothers should receive paid leave or leave with suitable social security benefits"²⁶⁶. The Convention on the Rights of the Child (CRC), 1989 Article 18(2), "States Parties are required to support parents and legal guardians in fulfilling their child-rearing duties and develop necessary institutions and services for child care"²⁶⁷. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Article 11 "Non-discrimination in

²⁶³ Achieving gender equality at work | International Labour Organization. (2023). In: www.ilo.org. [online] Available at: <https://www.ilo.org/resource/conference-paper/ilc/111/achieving-gender-equality-work>. [Accessed Jun. 2023].

²⁶⁴ Maternity Protection Resource Package Module 1. (2012). [online] mprp.ilo.org. Available at: <https://mprp.ilo.org/pages/en/modules.html>. [Accessed: 16 January 2021].

²⁶⁵ Universal declaration of human rights (UDHR), Article 25(2). Available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

²⁶⁶ The International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, Article 10 (2). Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights#:~:text=Article%2010,-The%20States%20Parties&text=Marriage%20must%20be%20entered%20into,with%20adequate%20social%20security%20benefits>.

²⁶⁷ The Convention on the Rights of the Child (CRC), 1989 Article 18(2). Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

employment; health and safety at work; prohibits dismissal during pregnancy and maternity leave; maternity leave with pay"²⁶⁸.

Since its inception in 1919, the International Labour Organization (ILO) has prioritised addressing the issue of maternity protection for female workers. The ILO has introduced three Conventions to expand the scope and rights of maternity leave in the workplace, providing specific guidance for national policy and implementation. The first of these Conventions, the Maternity Protection Convention (No. 3) of 1919, granted women in public or private industrial or commercial undertakings a period of 12 weeks of leave.²⁶⁹ Later, in 1952, the Maternity Protection Convention (Revised) (No. 103)²⁷⁰ The protective scope was broadened to include women working in factories, as well as those in non-industrial and agricultural occupations, which included "domestic work for wages in private households" (Article 1.3.h). It is worth noting that this convention is no longer open for rectification.

Further, the ILO introduced the new Maternity Protection Convention No.183 in 2000. Together with their Recommendations (No. 95, 1952; No. 191, 2000), these Conventions have progressively expanded the scope and rights of maternal protection at work and provided extensive guidelines to steer national policies and actions.²⁷¹

Convention No. 183 protects all working women and includes five significant elements to ensure maternity protection for women in the global labour market. Article 4(1) of Convention No. 183 extends maternity leave from 12 weeks to 14 weeks, of which 6 weeks of leave must be granted after the child's birth at the national level, as per Article 4(4). Additional leave may be given in the event of sickness, problems, or potential difficulties resulting from pregnancy or delivery, as per Article 5. Maternity leave is crucial for a mother's health, especially after the birth of a child, as a mother needs adequate time to rest. Recommendation No. 191 suggests that member states extend the leave by at least 18 weeks, per Para1(1). Providing leave to a working mother alone is not adequate. Maternity leave with cash benefits is crucial for women workers' health and economic security during leave.

²⁶⁸ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)1979 Article 11. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

²⁶⁹ Maternity Protection Convention (No. 3) 1919. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C003

²⁷⁰ Maternity Protection Convention (Revised) (No. 103), 1952. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312248

²⁷¹ Maternity and paternity at work: Law and practice across the world | International Labour Organization. (2014). [online] [www.ilo.org](https://www.ilo.org/migration-stub-7235/maternity-and-paternity-work-law-and-practice-across-world). Available at: <https://www.ilo.org/migration-stub-7235/maternity-and-paternity-work-law-and-practice-across-world>.

Securing cash and medical benefits is the second core element of Convention No. 183. Cash benefits should be provided to women on maternity or sick leave per national laws and regulations and in any other manner consistent with national practice, as per Article 6. Cash benefits should ensure a suitable standard of living for women and their children, and they should be based on previous earnings, not less than two-thirds of the woman's last earnings; if other methods are used, the amount should be comparable to the average, as per Article 6(2-4).²⁷²

Further, Recommendation No. 191 Para 2 states that if practicable, the cash benefits should be raised to the total amount of the woman's previous earnings²⁷³. Article 6(7) of Convention 183 requires member states to facilitate medical benefits. The female employee and her child will receive medical coverage according to national standards and practices, which includes necessary hospital treatment and care for prenatal and postnatal needs.²⁷⁴

The health and safety of pregnant and breastfeeding women in the workplace is the third important aspect of maternity protection. It is crucial to create a decent workplace and ensure gender equality. Exposing pregnant or nursing workers to dangerous work can negatively impact their health and their children. Convention No.183, Article 3, acknowledges the health protection rights of women workers globally. Member states are encouraged to adopt measures that prevent pregnant or nursing women from performing work that could harm their well-being or their children.²⁷⁵ Recommendation No. 191 urges employers to adjust the working conditions of pregnant and nursing women to minimise any potential risks to their safety and health. It is essential that we prioritise the health and well-being of pregnant and nursing women in the workplace, and these conventions provide a framework for doing just that.

The fourth aspect of maternity protection aims to prevent and eliminate discrimination based on pregnancy and maternity leave in the labour market. Convention No. 183 and Recommendation No. 191 have set out requirements for non-discrimination and employment protection, ensuring that female workers can remain in the workforce. Article 8 of Convention No. 183 mandates that employers shall not terminate the employment of a female worker during pregnancy, maternity leave, and a certain period after returning to work.

²⁷²Maternity Protection Convention (No.183).2000. Article 4-6.Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REV,en,C183./Document

²⁷³ Maternity Protection Recommendation, 2000 (No. 191). para 1. Available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312529

²⁷⁴ Maternity Protection Convention (No.183).2000, Article 6(7)

²⁷⁵ Ibid. Article 3.

Additionally, women should be reinstated in their previous or equivalent jobs with the same salary upon their return. If the employer dismisses a female worker during this time, they have the burden of proving that the dismissal was unrelated to pregnancy, childbirth, or breastfeeding. This "setback of the burden of proof" strengthens women's employment security.²⁷⁶

The fifth crucial component of maternity protection is arranging breastfeeding facilities at the workplace or feeding breaks during work time. This contributes to women's reintegration into work and creates a gender-receptive working environment.

7.2 Maternity Protection: National Legislation

Bangladesh, being a member of the ILO, first incorporated maternity protection into its national legislation in 2006 by introducing the Bangladesh Labour Act (BLA). The BLA 2006 section 46 entitled Maternity leave of 16 weeks (8 weeks before and 8 weeks after birth) was granted to women who worked at a facility for at least six months before the day of their delivery. The employer shall be responsible for paying maternity benefits throughout this time, and if the worker has 2 or more children will not get this benefit. Under section 47, to obtain maternity benefits, a pregnant woman must inform her employer either orally or in writing on any day that she assumes to be confined within eight weeks following the notice. If a woman has not given any such notification, she must inform her employer about her giving birth to a child within seven days of giving birth. After receiving the notice, the employer must permit the concerned woman to be absent herself from work. An employer shall pay maternity cash benefit to a woman upon providing proof of birth within 3 working days. The evidence which is required to be produced shall be either an attested extract from a birth register maintained under the Births and Deaths Registration Act, 2004 (Act No. XXIX of 2004) or a certificate given by a registered medical practitioner or such other proof as may be acceptable to the employer. The maternity benefit is calculated based on the pregnant woman's daily, weekly, or monthly average wages. This calculation is done by dividing the total wages earned by the woman during the three months preceding her notice by the number of days she worked. The payment is made in cash, section 48(BLA 2006). In case of a female worker's death, if a woman entitled to maternity benefits dies during delivery or within eight weeks following it, the employer must pay the benefit to the person caring for the child if the child survives. If the child dies, the payment will be made to the woman's nominee or legal representative.

²⁷⁶ Maternity Protection Convention (No.183), 2000. Article 8

If a woman dies before giving birth, the employer shall pay the benefit for the period preceding and including the day of her death. Any excess benefit already paid shall not be recoverable. The employer shall pay any amount due to the nominee or legal representative, section 49. Further, to protect female workers as per section 50, if an employer terminates the employment of a woman worker within 6 months before or 8 weeks after her delivery without satisfactory cause, she will still be entitled to maternity benefits as if the termination had not occurred.²⁷⁷

Further, the BLR 2015, section 37, requires employers to respect pregnant workers, prohibit insults, prohibit hazardous work, and transfer them to non-hazardous duties. Priority should be given to pregnant employees when using lifts at work. For section 46(2) of BLA 2006, the workers are entitled to annual earned and medical leave. To comply with section 47 of BLA 2006, the Pregnancy notices should be given before and after delivery, using Form-18 and Form-18 (a), section 39(1) of BLR 2015. If a pregnant worker cannot take post-delivery pregnancy benefits in person, they should be given to someone authorised in writing. If oral notice is given, the leave-granting officer will record it and take the worker's signature. Information on pregnancy welfare benefits should be preserved in Form-19, and the competence certificate should be given in Form-17. Monthly and annual returns should be submitted between 10th and 15th February to ensure compliance with regulations, section 37 (1-6).²⁷⁸

In the amendment of BLR 2022, a new section is added, section 38(ka), where a female worker will get a four-week miscarriage leave if a miscarriage occurs before the due date of maternity leave. The revised rule under section 39(ka1) of BLR 2022 states that the maternity benefit amount should be calculated by dividing the worker's one-month wage by 26, and the one-day average allowance should be decided for section 48(2) of BLA 2006.²⁷⁹

The Bangladesh Export Processing Zones Labour Act 2019(EPZ Labour Act), section 2(27) defines the maternity benefit under this act, and sections 29, 30, 31, and 32 state similar rules regarding maternity leave and benefits as the BLA 2006.²⁸⁰ However, to strengthen the implementation of the EPZ Labour Act, the new Bangladesh Export Processing Zones Labour Rules came into force in 2022.

²⁷⁷ Bangladesh Labour Act (BLA) 2006, sections 46 -50.

²⁷⁸ Bangladesh Labour Rule (BLR) 2015. Section 37-39.

²⁷⁹ Bangladesh Labour Rule (BLR) 2015.Amended 2022

²⁸⁰ Bangladesh Export Processing Zones Labour Act 2019(EPZ Labour Act), section2,29-32.

It contains provisions similar to BLR 2015 regarding pregnancy notice, calculation of benefits, and other related issues stated in sections 33-38 of EPZ Labour Rule 2022.²⁸¹

The Labour Act also incorporated the childcare and breastfeeding facility provision in the BLA 2006 (amendment 2013) section 94 "which stated that "every establishment should provide and maintain a children's room for the children of under six years of age, wherein forty or more female workers are working", the provision also mentioned employing women supervisors for daycare centres/children's rooms for children safety. According to section 94(3) of the BLA 2006: "The children's room shall be readily accessible to the mothers of the children and, so far as is practically feasible, shall not be positioned adjacent to or near any section of the facility emitting offensive gases, dust, or odours, or where boisterous work is being done". To enhance the child care facility under section 94 of the BLA 2006.²⁸² The BLR 2015 illustrates in-depth rules for maintaining the child room. The Inspector General or authorised inspector must approve the Children's Room's layout, quality, and position. A separate area for breastfeeding mothers must be provided, with screens for privacy. The floor and internal walls of the Children's Room must be smooth and waterproof. Milk and nutritious foods must be supplied for the children staying in the Children's Room. Employees working in the Children's Room must be provided with clean clothes. Female employees should be prioritised when hiring for the childcare Rule 94 (1-6).²⁸³ In the Bangladesh EPZ Labour Act 2019, section 35(2j) stated about the child room facility. The new EPZ Labour Rule 2022, section 64, describes similar facilities to be ensured as mentioned in BLR 2015. Further, the act requires employers to provide adequate furniture and toys for the children and open playground facilities.²⁸⁴

7.3 Maternity Protection in Bangladesh: ILO Compliance and Recent Updates

The compliance of Bangladesh's maternity protection regulation with ILO standards is noteworthy. Despite not ratifying any of the ILO's maternity conventions and recommendations, the Bangladesh national labour legislation mandates 16 weeks of leave, which meets the requirements of Convention No. 03 (12 weeks) and Convention No. 183 (16 weeks) Article 4(1). Additionally, Convention No. 183 stipulates that member states must provide six weeks of postnatal leave to ensure the health of both mother and child. Bangladesh has divided its 121-day leave into pre-and postnatal periods, with 100% cash benefits based on

²⁸¹ Bangladesh Export Processing Zones Labour Rules (EPZ Labour Rule) 2022.section 33-38.

²⁸² Bangladesh Labour Act (BLA) 2006, section 94

²⁸³ Bangladesh Labour Rule (BLR) 2015. Section 94.

²⁸⁴ Bangladesh Export Processing Zones Labour Rules (EPZ Labour Rule) 2022.Section 64

previous earnings. Furthermore, under the Bangladesh Labor Act, employers are solely responsible for paying maternity benefits. While ILO Conventions No. 3 and 103 stress the importance of the social security system in providing maternity benefits, Convention No. 183 maintains the principle that employers should not be individually responsible for such benefits. However, employers may assume individual liability

for benefits if specific agreements are in place or if national law permits them to bear the cost of maternity benefits, Article 6(8).²⁸⁵

Pregnant workers are legally protected from hazardous work under the National Labour Act, following ILO Convention No. 183. However, it is unfortunate that female workers are not safeguarded against discrimination and job security. No explicit law is in place to ensure that a worker returns to the same job or position with equal pay.²⁸⁶ Nonetheless, the Labour Act restricts the termination of pregnant workers within 6 months or 8 weeks after maternity leave. If an employer terminates a worker without a valid reason, the worker will receive maternity benefits. However, there is ambiguity about who bears the burden of proof when determining whether the reason for termination is justified. The Acts in Bangladesh do not have explicit provisions for non-pregnancy tests.²⁸⁷

Maternity protection is an international labour standard that encompasses crucial aspects such as breastfeeding, childcare facilities, and postnatal examinations. However, the Bangladesh Labour Act lacks specific provisions for feeding breaks and postnatal health examination breaks with pay security. Nonetheless, national acts mandate that employers create childcare rooms and breastfeeding facilities in compliance with the laws' guidelines.

In 2022, the amendment of BLR 2015 brought changes in maternity protection in the national laws and the calculation method for maternity benefits. Under the updated rule, only wages earned in the month immediately prior to maternity leave will be used to determine benefits. The average daily wage will then be calculated by dividing this amount by 26 days, regardless

²⁸⁵Maternity and paternity at work: Law and practice across the world | International Labour Organization. (2014). [online] [www.ilo.org](https://www.ilo.org/migration-stub-7235/maternity-and-paternity-work-law-and-practice-across-world). Available at: <https://www.ilo.org/migration-stub-7235/maternity-and-paternity-work-law-and-practice-across-world>.

²⁸⁶ Addati, L., Cattaneo, U. and Pozzan, E. (2022). *Care at work Investing in care leave and services for a more gender equal world of work*. [online] Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_838653.pdf [Accessed May 2023].

²⁸⁷ Addati, L., Cattaneo, U. and Pozzan, E. (2022). *Care at work Investing in care leave and services for a more gender equal world of work*. [online] International Labour Organization (ILO)2022. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_838653.pdf .[Accessed 2023].

of actual days worked. It means that paid leave days will not be included, and work days will be fixed at 26. Moreover, per Section 9 of the EPZ Labour Act 2019, each general holiday must be deemed a working day.

Consequently, a month is constituted by 30 working days. Nevertheless, the new EPZ Labour Rule 2022 has exacerbated this provision by enforcing the identical calculation methodology as that of BLR 2022. It may result in female workers receiving fewer benefits than what is listed in Section 48(2) of the BLA 2006. The recent change could lead companies to strictly adhere to the new rules, potentially harming pregnant workers. This new calculation method may provide RMG workers with insufficient cash benefits for their sustenance during maternity benefits.²⁸⁸

There seems to be some ambiguity in the recent change in the BLR 2015. It states that if a woman delivers later than the expected date, the additional days will be adjusted within the subsequent eight weeks of maternity leave. This provision is unclear and could allow employers to disregard the mandatory two-month post-delivery maternity leave. Additionally, the new rule(38A) Leave for Miscarriage guarantees a woman leave in the event of a miscarriage. In the case of a miscarriage occurring before the scheduled date of maternity leave, the woman will be entitled to four weeks of leave for health reasons, and no wage deductions will be made during this time. However, if a female worker experiences a miscarriage within the 8-week maternity leave period, her general maternity leave may be automatically reduced due to the miscarriage leave rule. It could result in female workers having less time to physically and mentally recover.²⁸⁹

7.4 Maternity Protection: Global Overview

Since the establishment of the ILO, the organisation has had a prodigious emphasis on international labour standards related to maternity protection. The global scenario of maternity protection is unsatisfactory. As per the ILO (the Maternity and Paternity at Work Report 2014), out of 185 member states, 66 countries ratified at least one of the ILO conventions on maternity protection. Around 830 million women workers worldwide lack sufficient maternity protection. This situation predominantly affects women in Africa and Asia, who make up nearly 80 per cent of the affected workers.

²⁸⁸Mahmud, S.A. (2022). Not enough support. *Dhaka Tribune*. [online] 21 Nov. Available at: <https://www.dhakatribune.com/opinion/op-ed/298695/not-enough-support> [Accessed 2023].

²⁸⁹Yasmin, T. (2022) Changes in labour rules will actually reduce maternity benefits, *The Daily Star*. Available at: <https://www.thedailystar.net/opinion/views/news/changes-labour-rules-will-actually-reduce-maternity-benefits-3157436> [Accessed: 16 November 2022].

Convention No.183 is typically implemented through national laws or regulations, although different countries use unique approaches to adapt maternity protection. Around the world, most countries provide at least 14 weeks of maternity leave following the ILO conventions. Regarding cash benefits during maternity leave, only two out of 185 countries do not provide statutory cash benefits. 107 countries provide cash benefits from national social security, 47 countries rely solely on employers, and 27 countries use shared responsibility. Surprisingly, only 28.4% of employed women worldwide would be entitled to cash benefits in the event of maternity. The employer liability system is prevalent in Africa, Asia, and the Middle East.

Moreover, 74 countries provide two-thirds of the previous earnings cash benefits, and 61 countries offer 100% of the previous earnings for 14 weeks. Furthermore, 93 countries provide maternity leave without pay or less than two-thirds of the previous earnings or pay for less than 14 weeks.²⁹⁰

Despite the existence of Convention No. 183, which prohibits unfair dismissal of women workers, discrimination against women based on maternity leave, childbirth, or nursing continues in the global workplace. Discrimination is particularly evident in Africa and Asia, where women may not have legal protection from such discrimination. In European Union (EU) countries, national legislation exists to prevent discrimination against pregnant workers. However, there are still instances where women face unfair dismissal or are denied the right to return to their previous position or an equivalent one after taking maternity leave. Out of 165 countries, 145 have non-discrimination legislation on maternity leave. However, only 64 countries guarantee the right for a woman to return to her previous position or an equivalent one after maternity leave, following Convention No. 183, but 82 countries do not offer any such guarantee.²⁹¹

It is important to note that regarding unfair dismissal due to maternity leave, under Convention No. 183, out of 144 countries surveyed, 54 countries have legal provisions in place that require the burden of proof to be on the employer. Whereas 86 countries have no legislation supporting this requirement, the remaining countries place the burden of proof on the workers. This information highlights the varying legal approaches taken in different countries to protect women's rights in the workplace.²⁹²

²⁹⁰ Ibid. p9-12.

²⁹¹ Ibid p60

²⁹² Ibid. p75-80

In 114 out of 155 countries, there are laws in place that protect against discrimination based on sex, which is indirectly related to maternity. Moreover, 43 countries had specific laws prohibiting discrimination against women due to maternity or pregnancy. It is a significant step towards ensuring equal rights and opportunities for everyone. Regarding the prohibition of pregnancy tests, only 47 countries have explicit laws banning pregnancy tests at the time of applying for a job.²⁹³

Health protection for pregnant and nursing workers at the workplace is a significant requirement of Convention No. 183 and Recommendation No. 191. According to ILO available data among 151 countries, 49 have no restrictions for night work in their legislation, 20 do not prohibit night work, but pregnant women are obliged to work. On the other hand, 81 countries prohibit night work in law, and 30 countries generally prohibit night work covering all women, especially in Africa, Asia, and the Middle East. For prenatal examination, out of 156 countries with obtainable information, 116 countries do not provide time off for prenatal health examination, whereas 40 countries provide time off as a right, and 30 of these countries specify that this time off is paid.

Moreover, to prevent pregnant and nursing women from hazardous work, 111 out of 160 member states have statutory measures on dangerous or unhealthy work affecting pregnant or nursing women, of which 78 countries set explicit prohibitions against such work. Almost half of those with explicit bans forbid all women from working in specific environments classified as dangerous.²⁹⁴

ILO members must ensure the provision of nursing breaks and hygienic facilities for breastfeeding workers according to ILO conventions and recommendations. Out of 160 countries, 121 provide paid or unpaid daily breaks or a daily reduction in working hours for nursing workers, while around 39 countries do not have provisions for nursing. Two-thirds of these countries are in Africa, Asia and the Caribbean. Further, in line with Recommendation No. 191 provision for hygienic facilities for nursing at or near the workplace, only 50 out of 159 countries had relevant national legislation. Among these 50 countries, 29 have statutory provisions on nursing or childcare facilities applied with the condition that the company employs a minimum number of women.²⁹⁵

²⁹³ Ibid p85

²⁹⁴ Ibid p 89-98

²⁹⁵ Ibid p101-108

According to the new ILO report in 2023, legislative maternity protection has been slow in progress over the past decade worldwide. Despite adopting Convention No. 183 in 2000, only 40 members have ratified it as of 2021, while 147 countries are yet to do so. However, the ILO survey in 2021 found that almost all 185 countries have statutory provisions for maternity leave in their legislation. Of these 185 countries, 98 have schemes aligning with Convention No. 183, potentially benefiting 1.2 billion mothers.

Unfortunately, 82 countries do not meet at least one standard set by the ILO on maternity leave, potentially affecting 649 million mothers. Additionally, one country does not offer any maternity leave rights.²⁹⁶

However, 64 countries still offer maternity leave duration below 14 weeks. The duration of maternity leave is at least 14 weeks in 120 countries, with 52 countries meeting or exceeding the ILO 18-week standard. 123 countries offer fully paid maternity leave, with 9 in 10 potential mothers living in these countries and 163 countries that offer a paid leave of at least 67% of previous earnings for potential mothers, which benefits 1.7 billion mothers. There are 13 countries with maternity leave cash benefits below two-thirds of earlier earnings for 72 million potential mothers, and 2 countries offer unpaid maternity leave.²⁹⁷

In 2021, around the world, 13 countries had not yet implemented protection against unlawful dismissal related to maternity leave. According to ILO data, about 83 countries do not guarantee employment protection through the entire maternity period, which puts 50% of potential mothers at risk of facing discriminatory dismissal. Remarkably, about 89 countries worldwide have ensured the right for women to return to the same or an equivalent job post maternity leave, and almost half of the potential mothers live in these countries. Moreover, the report shows that only 24 countries where pregnancy tests are explicitly prohibited and 1 in 10 potential mothers across the globe live in these countries. However, 26 countries have newly mandated implicit or explicit prohibitions against such tests.²⁹⁸

By 2021, only 40 countries' employers will be obliged to ensure protection for pregnant nursing mothers from dangerous work. 23 countries still have a discriminatory policy that prevents women from working in hazardous or unhealthy conditions, which puts working mothers in danger, and 21 countries have some protective measures.

²⁹⁶ Maternity and paternity at work: Law and practice across the world | International Labour Organization. (2014). [online] *www.ilo.org*. Available at: <https://www.ilo.org/migration-stub-7235/maternity-and-paternity-work-law-and-practice-across-world>

²⁹⁷ Ibid p93

²⁹⁸ Ibid p83 -85

Regarding night work, 66 countries have no legal prohibition against night work; globally, 4 out of 10 working mothers do not have any legal protection. Remarkably, almost 132 countries globally did not provide paid breaks for prenatal health checkups.²⁹⁹

However, by 2021, the breastfeeding breaks provision is in line with Convention no 183; as per the ILO survey of 185 countries, 142 countries provide nursing breaks to employees. Among these, 138 countries offer paid nursing breaks, which cover 8 out of 10 potential mothers. Additionally, 80 countries offer two daily breaks, which benefits 5 out of 10 potential working mothers. Furthermore, 130 countries offer nursing breaks of at least one hour daily, and 109 countries provide daily nursing breaks for six months or more, benefiting 7 out of 10 potential mothers. However, there are still 72 countries that do not offer any nursing breaks, and 4 countries offer unpaid nursing breaks, affecting 14.4% of potential mothers.

Moreover, only 5 countries provide less than one daily hour of nursing break, and just 3 countries fund nursing breaks through social insurance. Regarding breastfeeding facilities at the workplace, 42 countries provide feeding facilities. However, most small and medium enterprises are exempted because of a specific number of requirements for female employees in the establishment.³⁰⁰

In conclusion, while progress has been made in ensuring maternity protection for women globally, there is still a need for more significant efforts to ensure that all women are provided with adequate protection in the workplace. Policymakers, employers, and society must work together to ensure that women are not discriminated against due to pregnancy and childbirth and that they are provided with the necessary support to balance their reproductive and professional lives.

7.5 Maternity Protection in Bangladesh's RMG Industry

Table 3 comprehensively analyses the maternity protection situation in the Bangladesh RMG industry outside the EPZs. The analysis is based on the Kormojibi Nari (KN) survey reports from 2018 and 2019, the report from the ILO 2017, and independent survey data collected by the author. The focus is on several key areas, including the duration of maternity leave, workers' understanding of the leave requirements according to the law, access to daycare facilities, and

²⁹⁹ Ibid 91-93

³⁰⁰ Maternity and paternity at work: Law and practice across the world | International Labour Organization. (2014). [online] *www.ilo.org*. Available at: <https://www.ilo.org/migration-stub-7235/maternity-and-paternity-work-law-and-practice-across-world.p.193-195>

availability of breastfeeding rooms. The statistics in the table give an overview of the progress made in each area over time and the practice of labour law.

Table 7
Maternity leave and benefits

KarmojibiNari	December 2018 ³⁰¹	March 2019 ³⁰²	April 2019 ³⁰³	ILO 2017 ³⁰⁴	Personal survey 2021 ³⁰⁵
Maternity leave	70.5%	65.4%	70.2%	22%	32%
Awareness of leave	17.8%	16.4%	19.8%	31%	87%
Daycare	35.7% no	59.2% no	38.7%no	27% no	60% no
	64.3% yes	32.4% yes	49.8% yes	22.8% yes	40% yes
Breastfeeding room (no)	57.5%	53.7%	55.2%	23%	0%

Source: made by author

Based on the data in Table 6, it can be observed that most women surveyed were granted maternity leave, with a slight increase from December 2018 to April 2019. However, there was still a low level of awareness about maternity leave entitlements among the workers surveyed. The provision of daycare facilities appeared to increase over the course of the survey period. Breastfeeding rooms were not widely available, with most respondents reporting their absence. Further, the "Building Back Better with Environmental Sustainability and Gender Equality Study." The Swedish International Development Agency (SIDA) and the ILO Regional Office in Bangkok are doing this project. The Bangladesh survey report highlights the need to improve the working conditions and rights of men and women in the Asian garment industry. The study participants noted that several small and medium-sized factories are failing to comply with the mandatory maternity leave policy. Moreover, in-factory childcare services in the sector are

³⁰¹ MONITORING WORK AND WORKING CONDITIONS OF WOMEN EMPLOYED IN THE READYMADE GARMENT INDUSTRIES OF BANGLADESH. (2018). [online] Karmojibi Nari. Available at: <https://www.karmojibinari.org/wp-content/uploads/2019/02/RMG-FactSheet2019.pdf> [Accessed Jan. 2020].

³⁰² Ibid. March 2019

³⁰³ Ibid. April 2019

³⁰⁴ a Improving Working Conditions in the RMG Sector Phase-II: Baseline Study Report (2017). (2019). [online] Dhaka Bangladesh: International Labour Organization (ILO). Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_735614.pdf. [Accessed 2 Jun. 2020].

³⁰⁵ Information collected by a personal interview with the female workers.

inadequate regarding quality, infrastructure, and child safety measures. The participants also highlighted that most enterprises tend to dissuade workers from utilising onsite childcare facilities due to the additional cost it incurs for the factory. Remarkably, maternity protection in the RMG is inadequate.³⁰⁶

Further, other individual research by Bashirulls and Tasnim (2023), with 90 respondents, identifies that the BLA 2006 guarantees 16 weeks (112 days) of paid maternity leave for women workers, but most garment factories do not provide this leave with pay. A study shows that 75% of women workers enjoy maternity leave, and garment factories in the Mirpur area provide 90 days of maternity leave, which is less than the 112 days mandated by the BLA. However, 25% of unmarried workers were unaware of this benefit. Additionally, 28% of women workers believe that 90 days of maternity leave is insufficient, while 75% of workers receive this leave with pay.³⁰⁷

Additionally, Saha, in 2023, in an individual survey, identified that out of the 200 women workers observed, 82 workers (40.6%) had access to maternity leave, while 118 workers (58.4%) did not have access to it. In addition, 55 workers (27.2%) were found to receive wages during their maternal absence, whereas 145 workers (71.8%) did not receive wages. The tenure of maternity leave, with 41 workers (20.3%) having 1 to 8 weeks of leave, 31 workers (15.3%) having 8 to 16 weeks of leave, and 128 workers (63.4%) having to negotiate with their employers for leave.³⁰⁸

7.6 Implementation Gap of Maternity Protection in Bangladesh's RMG Industry

Although the BLA 2006 and EPZ Labour Act 2019 comply with some of the ILO objectives, Bangladesh has yet to ratify the ILO maternity protection conventions. However, simply incorporating maternity protection into national legislation will not be enough to eradicate the GBD. Adequate implementation of the law is also critical. Unfortunately, the RMG sector's implementation of maternity protection is currently inadequate. While the act provides 16 weeks of leave, it is applied unevenly across various industries.

³⁰⁶ Building back better with environmental sustainability and gender equality: Bangladesh country summary | International Labour Organization. (2022). [online] [www.ilo.org](https://www.ilo.org/publications/building-back-better-environmental-sustainability-and-gender-equality-2). Available at: <https://www.ilo.org/publications/building-back-better-environmental-sustainability-and-gender-equality-2> [Accessed 2023].

³⁰⁷ Basirulla, M.D. and Tasnim, F., 2023. Nature of Human Rights Violation on Female Garments Workers in Bangladesh. *Khazanah Hukum*, 5(1), pp.1-17.

³⁰⁸ Saha, H., 2023. Rights of the Women Worker of Readymade Garment Industry in Bangladesh: Gaps Between Law and Practice. *Journal of Law and Society*, 6(1), pp.102-111.

For example, employees in the public sector, government and private banks, and the education sector receive 6 months (180 days) of maternity leave.

In contrast, RMG women workers, who make up the majority of the workforce and have more complex jobs than women in other sectors, only receive 16 weeks of paid leave. Recent surveys suggest that only 28.7% of workers get four months of maternity leave.³⁰⁹ Most of the female workers in the industry are uneducated, so they lack legal knowledge or have a vague understanding of maternity leave and benefits. Factory management took advantage of this and disregarded the laws.³¹⁰

For instance, if a worker is unclear about the provisions for applying for pre-delivery leave or post-delivery notification times, they may be deprived of benefits. While factory owners do pay benefits, they are often inadequate, and there is reluctance to adhere to the law. To avoid paying benefits, factory management may choose not to hire those who are planning to conceive or who have conceived and illegally terminate them before their maternity leave. This discriminatory practice is unfortunately common within the RMG industry. Some owners may only arbitrarily comply with legal requirements for maternity leave and benefits, raising the eligibility from six months to one year and offering only 14 or 15 weeks of leave.³¹¹ It is worth mentioning that the benefits of maternity leave go beyond just receiving leave and financial support.

In addition to these benefits, new mothers are entitled to necessary accommodations for breastfeeding, frequent breaks for feeding, and post-birth health checkups. Unfortunately, employers lack awareness of laws related to daycare and breastfeeding facilities. It has been reported that some factories may have daycare centres, but only to satisfy labour laws for buyers. Furthermore, workers have shared that even when a daycare is available, there is often only one supervisor responsible for caring for many children of varying ages.³¹²

³⁰⁹ Haque, S. (2021) Maternity leave: Crying need for RMG workers, *The Business Standard*. Available at: <https://www.tbsnews.net/feature/panorama/maternity-leave-crying-need-rmg-workers-230992> [Accessed: 15 May 2021].

³¹⁰ Maternity Rights and ChildCare in Bangladesh: A Study of Workers in the Ready-Made Garment Sector. (2019). [online] Awaj Foundation Available at: http://awajfoundation.org/wp-content/uploads/2019/10/GenderResearchStudy_FINAL.pdf [Accessed 2020].

³¹¹ Ibid

³¹² Hossain.J. Ahmed. M, (2017). Watch Report “Promoting women readymade garments workers’ rights through labour regulation”. Available at https://www.care.at/wp-content/uploads/2018/02/Watch-Report_October-2017.pdf [Accessed 8 December 2021].

In the provision about daycare supervisors, the Labour Act needs to specify the number of supervisors in the proportion of kids and their age. As per the law in RMG factories, the requirements of a daycare room are somewhat impractical. As most factory structures are unsafe for workers, how will it be a safe choice for kids. The law currently restricts financial benefits to a maximum of two children and excludes any additional benefits for a third child. It poses a significant challenge for female RMG workers in Bangladesh, where the birth rate is notably high, as it limits their ability to exercise their reproductive rights.

7.7 Recommendations for Improving Maternity Protection in the RMG Industry

Maternity protection is an essential aspect of the labour rights of female workers globally, including the RMG sector in Bangladesh. However, the current provisions for maternity leave for female workers in the country are inadequate and need to be improved to ensure that RMG female workers are protected and can enjoy their rights.

One of the primary reasons that maternity protection implementation is lacking in Bangladesh is due to the employers' liability. According to the law, employers are solely responsible for guaranteeing maternity protection in all areas. These include providing paid leave, ensuring job security, and offering a safe and healthy working environment for pregnant workers. However, ensuring compliance with all aspects of the maternity rule can be costly, especially for small and medium-sized RMG industries. Consequently, many of these industries fail to comply with the law, putting their pregnant workers at risk of harm or discrimination.

Improving maternity protection in the Bangladesh RMG industry is crucial to ensuring that female workers have a safe and healthy work environment. To achieve this, the following recommendations can be implemented:

First, Bangladesh needs to ratify Convention 183 and Recommendation 191 of Maternity Protection. To make sure that female workers are protected, it is recommended to implement and strictly enforce policies that provide maternity protection. Although existing policies like the BLA 2006 and BLR 2015, EPZ Labor Act 2019 and EPZ Labour Rule 2022 have provisions for maternity protection, they are not always enforced, and therefore, strict enforcement is necessary to safeguard the rights of female workers.

They were, additionally, extending the current maternity leave period of 16 weeks to allow women enough time to recover from childbirth and bond with their newborns. Female workers should also be assured of job security during their maternity leave period, as they often face job loss or demotion.

Raising awareness and educating female workers about maternity protection is also important. This includes providing information on maternity leave, breastfeeding breaks, and other related benefits. Improving working conditions in the RMG industry is crucial to supporting pregnant and breastfeeding women. Providing ergonomic workplaces, reducing workload, and maintaining a safe and healthy workplace environment are some ways to achieve this goal.

Further training programs can be conducted to raise awareness among workers, employers, and other stakeholders about the importance of maternity protection and how to implement it effectively. Finally, monitoring and evaluation mechanisms can be established to ensure that employers comply with the regulations and identify improvement areas. By taking these steps, Bangladesh RMG can improve the implementation of maternity protection and safeguard the health and well-being of female workers.

8 Maternity Protection: Legislative Approaches in the EU and Bangladesh

Maternity protection is a crucial instrument within the EU to ensure women's participation in the labour market and to achieve gender equality. The Pregnant Workers Directive (92/85/EEC) establishes minimum standards for maternity protection, including 14 weeks of leave, with at least two compulsory weeks, and provisions to safeguard the health of pregnant and breastfeeding workers. In EU countries like Poland, Romania, and Hungary, the implementation of maternity protection standards is underpinned by compliance with the Pregnant Workers Directive (92/85/EEC)³¹³. These countries revised their national labour laws to meet the directive's stipulations.

Poland amended its Labour Code to meet the directive's requirements. Maternity leave provisions allow for 20 weeks of leave, with an additional six weeks available in specific circumstances. Workplace safety regulations for pregnant employees are also codified, ensuring safe work environments. The Social Insurance Institution (ZUS) pays employees 100% of their salary during maternity leave.³¹⁴ Romania has aligned its legislation with EU standards, offering 126 days of maternity leave at 85% of the average salary. Additional protection for pregnant workers, such as modified work conditions and prohibition of night shifts, is also in place.³¹⁵

³¹³ Directive 92/85/EEC - pregnant workers - Safety and health at work - EU-OSHA.Europa.eu. [online] Available at: <https://osha.europa.eu/en/legislation/directives/10>.

³¹⁴ Łomacz, M. (2022). Leave and benefits related to maternity and parenthood. [online] biznes.gov.pl. Available at: <https://www.biznes.gov.pl/en/portal/004074>.

³¹⁵ Buzatu-Teodorescu, L. (2023). Romania: New state law on priority access for pregnant women and people accompanied by young children. *Lexology*. [online] 2 Nov. Available at:

Hungarian labour law provides 24 weeks of maternity leave, supplemented by childcare allowances. Employers are required to modify job responsibilities to accommodate the health and safety needs of pregnant workers. Further, Hungarian labour law prohibits dismissal during pregnancy, provided the employer is informed. If the employee discloses her pregnancy after receiving a dismissal notice, the employer has 15 days to retract the dismissal. Employees have 30 days to challenge wrongful termination, with a possibility to request justification for missed deadlines of up to six months.³¹⁶ Comparing this legislation with the CJEU's new ruling on pregnant worker protection in Case C-284/23, “Haus Jacobus”³¹⁷. The European Court of Justice (CJEU) has determined that the time constraints for employees who become aware of their pregnancy after receiving a dismissal notice are inadequate. The court decided that the two-week timeframe for workers who learn of their pregnancy after dismissal is shorter than the customary three-week period, possibly obstructing effective legal remedies. This is especially troubling for pregnant employees, who often encounter difficulties in early pregnancy, since a reduced period may hinder their capacity to seek counsel and pursue legal recourse, thus undercutting the directive's protective purpose. The verdict underscores the need for more rigorous time constraints for pregnant employees in the workplace. It was observed that the Hungarian law provides more adequate protection to pregnant workers.³¹⁸

In comparison with these countries, maternity protection measures in Bangladesh exhibit both similarities and differences in their implementation. The implementation of maternity leave policies in Bangladesh is often hindered by limited government enforcement, relying heavily on international organisations and NGOs for support. Although national labour laws provide for 16 weeks of paid maternity leave, their actual enforcement is inconsistent, especially in the Ready-Made Garment (RMG) sector. Initiatives like Mothers@Work are making an effort to improve this situation by promoting supportive workplace environments that facilitate breastfeeding and offer better maternity benefits.

A significant challenge is the widespread problem of non-compliance, stemming from several factors, including the prevalence of informal work, cultural barriers, resistance from employers,

<https://www.lexology.com/library/detail.aspx?g=2f2a61f8-43fc-46df-8f77-fa509d5bbda2>. [Accessed 12 Jan. 2024].

³¹⁶ Greenfield, D. (2024). Maternity Leave in Europe 2023. *www.eurodev.com*. Available at: <https://www.eurodev.com/blog/maternity-leave-europe>.

³¹⁷ CJEU: Case C-284/23, Haus Jacobus: Judgment of the Court (Seventh Chamber) of 27 June 2024

³¹⁸ LABOUR LAW PROTECTION OF PREGNANT WORKERS IN HUNGARY. (2024). *Smartlegal.hu*. Available at: <https://smartlegal.hu/publication/labour-law-protection-of-pregnant-workers-in-hungary>. [Accessed 2 Jan. 2025].

and insufficient oversight. In comparison, EU countries encounter more complex compliance issues, whereas Bangladesh deals with more basic challenges like weak governance, informal labour practices, and economic constraints.

To address the issue, the EU could improve labour inspections and offer incentives for companies, particularly smaller ones, to comply with maternity leave regulations. Simultaneously, in Bangladesh, it is vital to bolster initiatives like Mothers@Work, tighten enforcement of existing laws, and increase awareness of maternity rights among workers and employers. Collaborating with international buyers to set minimum compliance standards could further promote positive change.³¹⁹

9 Discrimination: with family responsibility

Worldwide, men tend to participate more actively and freely in the workplace than women. Because due to the assumption that women should take responsibility for the home and family. However, this division of labour can have negative effects not only on men's and women's family lives but also on society. When women are expected to take care of the home and family solely, it limits their opportunities to participate in other areas of life and can lead to gender inequality.³²⁰

The ILO has introduced Convention 156 and Recommendation 165 to prevent discrimination based on family responsibility. These regulations aim to ensure equal opportunities and treatment for both men and women with family responsibilities in the workplace and promote gender equality. They also aim to establish equality between men and women with and without family responsibilities in employment and occupation.³²¹

ILO has recognised that parental leave is one of the crucial types of leave that usually comes after maternity leave. It is intended for one or both parents and allows them to take a relatively long-term break from work to care for their infant or young child. During this time, their employment rights are protected, and they do not have to worry about losing their jobs. This leave ensures the participation of the father in child care and family responsibility besides the working mother. Although there is not yet a dedicated ILO Convention on parental leave, Recommendation 165, para 22(1) 7, and Recommendation 191, para 10(3-4) both contain

³¹⁹ BetterWork (2022). *Mothers@Work A qualitative assessment*. [online] Available at: <https://betterwork.org/wp-content/uploads/MothersatWork20-dec.pdf>. [Accessed 12 Jan. 2024].

³²⁰ ILO (2023a). *Achieving gender equality at work Report III(Part B)* [online] www.ilo.org, pp.1–309. Available at: <https://www.ilo.org/resource/conference-paper/ilc/111/achieving-gender-equality-work> [Accessed 8 May 2024].p48

³²¹ Ibid. p77

provisions on parental leave. To create a more gender-equal workplace, the ILO has recommended that a reasonable period of parental leave should be made available to either parent after maternity leave, as per the national laws. The parents should not be forced to leave their jobs, and their employment rights should be protected during their leave. However, the distribution of parental leave between the parents is not determined by the Recommendations and should be decided at the national level. Around the world, 68 countries out of 185 ILO members have statutory parental leave.³²²

Additionally, according to Convention 156 Article 3(1), it is required that member states establish national policies that allow individuals with family responsibilities to participate in employment without experiencing discrimination or conflicts. Convention 156 Articles 4 to 8 aim to combat discrimination against workers with family responsibilities and promote equal opportunities and treatment for them³²³. To achieve this, measures must be taken to address discrimination and promote equal opportunities, as Recommendation 165 para 9 outlines. These policies should encompass all economic sectors, including salaried and non-salaried workers, and include vocational training, employment terms, social security, childcare, and community services.³²⁴

It is worth noting that the Labour Act in Bangladesh's failure to include provisions for parental and other care leave has led to a challenging situation for many workers, particularly female RMG workers. Maternity leave, which is the only leave provided under the law, is often not enough for new mothers who need more time to bond with their newborn children. The lack of additional parental leave also creates job insecurity for these workers, as they are forced to take unpaid leave to care for their children. Furthermore, the absence of provisions for other care leave puts workers in a difficult situation in the event of a family emergency, as they are left with no other option but to take leave without pay. By including provisions for parental and other care leave in the Labour Act, we can ensure that workers' rights are protected and that they can take care of their families without facing undue stress and financial hardship.

³²² Addati, L., Cattaneo, U. and Pozzan, E. (2022). *Care at work Investing in care leave and services for a more gender-equal world of work*. [online] International Labour Organization (ILO)2022. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_838653.pdf [Accessed 2023].

³²³ *Convention C156 - Workers with Family Responsibilities Convention, 1981 (No. 156)*. Ilo.org. [online] Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312301 [Accessed 11 Jan. 2025].

³²⁴ *Recommendation R165 - Workers with Family Responsibilities Recommendation, 1981 (No. 165)*. Ilo.org. [online] Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:12100:::12100:P12100_INSTRUMENT_ID:312503 [Accessed 11 Jan. 2025].

9.1 Work-Life Balance: EU Directive Promoting Gender Equality in Bangladesh RMG

The European Union (EU) has taken significant steps to tackle Gender-Based Discrimination (GBD) and promote equal treatment in the workplace. One of the key measures is the Work-Life Balance Directive (2019/1158), which highlights the need for a fair sharing of family responsibilities between genders. This directive lays out important guidelines for parental leave, flexible work options, and paternity leave—essential components in moving towards greater gender equality in professional environments.³²⁵ Countries such as Poland, Romania, and Hungary have made strides in establishing work-life balance laws that align with EU directives. These laws serve as a beneficial model for fostering equitable conditions to tackle Gender-Based Discrimination (GBD) in Bangladesh's Ready-Made Garment (RMG) industry. By adopting similar policies, Bangladesh can develop strategies aimed at tackling systemic issues in its RMG sector, where GBD persists due to deep-rooted cultural norms, inadequate support for working mothers, and weak enforcement of existing labour laws.

- **Poland's harmonisation of the EU directive**

In 2023, Poland made a significant change to its Labour Code aimed at improving work-life balance, following the EU's Work-Life Balance Directive. One of the main updates was the increase in parental leave, which is now 41 weeks for single births and 43 weeks for multiples. This is a jump from the previous allowances of 32 weeks and 34 weeks, respectively. Each parent is also entitled to nine non-transferable weeks of leave. During this time, parents will receive a social security benefit set at 70% of their regular salary. Additionally, fathers are now entitled to take 10 working days of paternity leave. For the first five days, they will receive their full salary, while the next five days will provide 40% of their pay.

Employees can also take up to five days of unpaid leave each year if they need to care for a family member or household member with serious health issues. Moreover, there is a provision for Force Majeure Leave, allowing workers to take a maximum of two days or 16 hours annually for urgent family matters due to illness or accidents. These changes reflect a substantial effort to support families in Poland and improve their overall quality of life. Employees with a minimum of six months of employment are also eligible for flexible working arrangements, including telecommunication and

³²⁵ Directive 2019/1158 - work-life balance for parents and carers.Europa.eu. [online] Available at: <https://osha.europa.eu/en/legislation/directive/directive-20191158-work-life-balance-parents-and-carers>.

reduced hours for parents of small children.³²⁶

Additionally, Poland has implemented many initiatives to comply with EU requirements regarding work-life balance, notably via the Family 500+ programme, which offers financial support to families to alleviate childcare expenses. It supports EU regulations by alleviating economic strain on working parents, thereby indirectly motivating women to re-enter the workforce post-childbirth.³²⁷

- **Romani's harmonisation of the EU directive**

The Romanian labour code has seen some important updates for 2023 to 2024 to align with EU regulations. These changes focus on creating a better work-life balance, in line with the EU Work-Life Balance Directive. One notable adjustment is the increase in paternity leave, which now extends from five to ten working days. Additionally, if dads complete a childcare course, they can earn an extra five days of leave.³²⁸

Parents now have the option to take up to two years of paid parental leave, which can be extended to three years for families with children who have disabilities. Additionally, there is a provision that allows employees to take up to five working days of unpaid leave each year to care for a seriously ill relative or household member. These updates aim to support families and promote a healthier work-life balance for everyone. Moreover, starting in 2024, single parents will be exempt from night shifts.³²⁹

- **Hungary's harmonisation of the EU directive**

In 2023, Hungary made significant changes to its Labour Code to improve parental leave benefits, in line with the EU Work-Life Balance Directive. Fathers can now take 10 working days of paternity leave right after the birth or adoption of a child. This leave must be used within two months and can be split into two separate periods if needed. For parents who have been employed for at least a year, they are entitled to 44 working days of parental leave until their child turns three. Employees can also take up to five

³²⁶ Ministry of Family, Labour and Social Policy. (2023). *Parental and Work-Life Balance Directives. President signed the Labour Code amendment*. [online] Available at: <https://www.gov.pl/web/family/parental-and-work-life-balance-directives-president-signed-the-labour-code-amendment>.

³²⁷ archiwum.mriips.gov.pl. (n.d.). *Ministry of Labour and Social Policy / Programmes / Family 500+*. [online] Available at: <https://archiwum.mriips.gov.pl/en/programmes/family-500/>.

³²⁸ ZRVP (2024). *Special Leave in Romanian Labor Law: Employer Guidelines - Zamfirescu Racoti Vasile & Partners*. [online] Zamfirescu Racoti Vasile & Partners. Available at: <https://zrvp.ro/special-leave-in-romanian-labor-law-employer-guidelines/> [Accessed 2024].

³²⁹ Florina.Babau (2024). Lone parents will not be forced to do night work. *Ascent Group*. [online] 14 Jun. Available at: <https://www.ascentgroup.eu/lone-parents-will-not-be-forced-to-do-night-work/> [Accessed 11 Aug. 2024].

days of unpaid leave each year to care for a family member or household member who has serious health issues.

Moreover, employees with at least six months of service can request flexible working arrangements. This could mean changing their work hours, teleworking, or even switching to part-time work. Employers are required to respond to these requests in writing within 15 days and must provide clear reasons if they deny any request.³³⁰

- **Implications for Bangladesh's RMG Sector**

Adopting work-life balance initiatives inspired by Poland, Romania, and Hungary could meaningfully improve conditions for Ready-Made Garment (RMG) workers in Bangladesh. These initiatives might be key in promoting gender equality and reducing stress in the workplace. For instance, offering shared parental leave, flexible work hours, and on-site childcare options could help ease the burden of caregiving, allowing employees, especially women, to manage their professional and personal lives better.

- Countries like Romania and Poland have made steps with shared parental leave policies that encourage both parents to participate in caregiving. Meanwhile, Hungary's model for on-site children providing on-site child care has shown a model of providing on-site childcare has shown promise in boosting productivity and lowering absenteeism. However, bringing similar regulations to Bangladesh isn't straightforward. Cultural norms often place caregiving responsibility mainly on women, and many employers hesitate to adopt these changes due to financial concerns and a lack of robust legal enforcement.
- Overcoming these challenges will require significant effort. We need government-supported childcare services, financial incentives for businesses that embrace these practices, and awareness campaigns to help shift societal views on shared caregiving. By fostering collaboration between the government, the private sector, and NGOs, we can work towards improving the welfare of RMG workers and tackling gender discrimination within the industry.

³³⁰ Legal, D. (2023). Implementation of the EU Directives on Work-Life Balance and on Transparent and Predictable. *CEE Legal Matters*. [online] 18 Jul. Available at: https://ceelegalmatters.com/hungary/23946-implementation-of-the-eu-directives-on-work-life-balance-and-on-transparent-and-predictable-working-conditions-hungary?utm_source=chatgpt.com [Accessed 11 Jan. 2024].

10. Working hours, Leaves and Night shift

It is important to acknowledge the significant challenges that working women face in achieving a balance between their work and family life. The International Labour Organization (ILO) has recognised this issue as one of the top concerns for women in the workforce. To address this, the ILO has adopted international standards on various aspects of working time, including hours of work, weekly rest, paid annual leave, night work, and part-time work, through conventions and recommendations.

These standards provide workers with rights at work. However, more needs to be done to promote work-life balance. The ILO's 2018 General Survey recognised that work hours can significantly impact the well-being and balance of individuals and their families.³³¹ Similarly, a 2020 ILO survey on Convention 156 highlighted that rigid work schedules and long working hours can be a barrier to balancing work and family responsibilities for many workers.³³²

Addressing these challenges and introducing national regulations to support female workers in balancing work and family life, promoting gender equality in employment, and creating more opportunities for career advancement and labour market entry can create a more constructive and supportive work environment that benefits both employees and their families.

The work and family life balance of female garment workers in Bangladesh has been identified as an area that requires attention to improve their overall quality of life. Factors such as long working hours, limited access to flexible working schedules, and inadequate childcare facilities are contributing to the imbalance between work and family life, thus having a significant impact on their familial duties. The demanding nature of the garment industry, with its high production targets and tight deadlines, exacerbates this situation and limits workers' ability to spend time with their families. It is, therefore, imperative to address these challenges and implement measures that promote work-life balance. Doing so could improve the well-being of workers and their families while enhancing the overall productivity and sustainability of the garment industry.³³³

³³¹ General Survey concerning working-time instruments - Ensuring decent working time for the future | International Labour Organization. (2018). In: *International Labour Conference, 107th Session, 2018*. [online] Available at: <https://www.ilo.org/resource/conference-paper/ilc/107/general-survey-concerning-working-time-instruments-ensuring-decent-working-1> [Accessed 2023].

³³² Workers with Family Responsibilities Convention, 1981 (No. 156) - General observation, publication 2020. Available at: https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/equality-of-opportunity-and-treatment/WCMS_752428/lang--en/index.htm.

³³³ Chowdhury, M., Hoque, N., Kabir, M., Mohammed, amp; and Kabir, J. (2015). Work-Life Balance of Female Garment Workers in Bangladesh: An Empirical Investigation. *Global Journal of Management and Business*

10.1. Working hours, Leaves and Night shift: International Standards

The right to decent working hours, leave, and rest periods is considered a cornerstone of fundamental human rights. This recognition is enshrined in Article 24 of the Universal Declaration of Human Rights, which unequivocally affirms that every individual has a right to rest and leisure, inclusive of reasonable limitations on working hours and periodic holidays with pay.³³⁴

It is crucial to consider the impact of working hours on employees' health and work-family life balance. Long, irregular working hours, including night shifts and excessive overtime, can be detrimental to workers' well-being and increase safety risks. Moreover, these hours can lead to an imbalance between work and family life, lower productivity, and have negative effects on society. To ensure a healthy work-life balance, promote gender equality and maintain a safe and healthy work environment, it is essential to plan and prioritise working hours effectively.

The International Labour Organization (ILO) has established standards for working hours through its Hours of Work (Industry) Convention, 1919 (No. 1). According to Article 4 of this convention, individuals should not work for more than 8 hours a day or 48 hours a week. However, certain flexibility clauses allow for average hours and exceptions. In cases where processes are carried out continuously through a succession of shifts, the limit of working hours may be exceeded up to 56 hours a week. Nonetheless, the maximum duration of additional hours in each instance should be fixed after consultation with the organisations representing employers and workers, as mentioned in Article 6.2 of the ILO Convention 1.³³⁵

Further, in 1935, the ILO adopted the Forty-Hour Week Convention (No. 47). Convention 47 was developed as a response to widespread unemployment and aimed to ensure that workers could benefit from technological progress without experiencing a reduction in their standard of living. Upon ratification, each member of the ILO agrees to implement a forty-hour work week and take appropriate measures to maintain living standards, Article 1. The Convention represents an important step towards promoting decent working conditions and protecting workers' rights.³³⁶

Research, [online] 15(17). Available at: https://globaljournals.org/GJMBR_Volume15/3-Work-Life-Balance-of-Female.pdf [Accessed 18 Dec. 2023].

³³⁴ Universal Declaration of Human Rights, Article 24

³³⁵ Hours of Work (Industry) Convention, 1919 (No. 1). Article 4,6(1)

³³⁶ Forty-Hour Week Convention, 1935 (No. 47), Article 1

As per Recommendation 116 of the Reduction of Hours of Work, 1962, any work hours exceeding the normal schedule, which is 8 hours a day, should be regarded as overtime unless already accounted for in the fixed pay. The authorised body must assess the maximum number of overtime hours allowed within a particular timeframe, taking into consideration exceptional circumstances such as disability, age, and pregnancy. Overtime must be compensated at a higher rate than regular hours, with the precise rate being determined by the competent authority.³³⁷

The ILO has established rest periods and vacation guidelines. According to the Weekly Rest (Industry) Convention, 1921 (No. 14), Article 4, all employees are entitled to at least 24 hours of uninterrupted rest in 7 days (weekly holiday)³³⁸. The ILO also instituted the Holidays with Pay Convention (Revised) in 1970 (No. 132) to replace Convention 52. This updated convention eliminated varying standards based on worker category and instead applied a universal standard to all workers. Additionally, it increased the length of paid leave to three weeks for employees with one year of service, which must include a minimum of two consecutive weeks.³³⁹

In addition, the Holidays with Pay Recommendation (No 98) was introduced in 1954, which requires every member to inform the International Labour Office about the measures taken to implement its provisions. Implementation can be done through various means, such as legislation, collective agreements, or arbitration awards, depending on national practices Article 2.³⁴⁰

Previously, according to Convention 52, employers are required to provide workers with at least six working days of annual leave with pay after their first year of employment to a specific class of workers. The duration of the annual leave should increase with the length of service, as approved by national laws and regulations. In addition, the Holidays with Pay Recommendation (No 98) was introduced in 1954, which requires every member to inform the International Labour Office about the measures taken to implement its provisions. Implementation can be done through various means, such as legislation, collective agreements, or arbitration awards, depending on national practices.³⁴¹

³³⁷ Reduction of Hours of Work Recommendation, 1962 (No. 116). Para 11, 16

³³⁸ Weekly Rest (Industry) Convention, 1921 (No. 14), Article 1.

³³⁹ Holidays with Pay Convention (Revised) in 1970 (No. 132). Article 3, 4

³⁴⁰ Holidays with Pay Recommendation 1954 (No 98), Article 1.

³⁴¹ Ghosheh, N. (2016). Remembering rest periods in law: Another tool to limit excessive working hours. [online] *International Labour Organization*. Available at: <https://www.ilo.org/publications/remembering-rest-periods-law-another-tool-limit-excessive-working-hours> [Accessed 20 Jan. 2023].

It is important to note that Convention No. 132 safeguards employee annual leave. It ensures that workers are entitled to annual leave after a maximum of 6 months of work and that this time off should not be used for sick or maternity leave. Additionally, it guarantees that payment for leave days should be based on regular or average pay. These measures are crucial in protecting the rights of workers to benefit from paid annual leave fully.³⁴²

Further, the ILO has established specific guidelines to ensure that women and adolescents are not subjected to non-standard working conditions that could negatively impact their well-being. These guidelines prohibit the employment of women, regardless of their age, during the night in any public or private industrial undertaking unless family members solely run the business. These provisions are outlined in the Night Work (Women) Convention (Revised), 1948 (No. 89), Article 3 and its Protocol of 1990, as well as the Night Work Convention, 1990 (No. 171), and the Night Work Recommendation, 1990 (No. 178). By implementing these regulations, the ILO aims to create a safer and more equitable working environment for women and adolescents.

The meanings of the terms "night" and "night worker" are precisely defined in Article 2 of Convention 89, Article 1 of Convention 171, and Paragraph 1 of Recommendation 178. The term "night" can be defined as 10 hours. This period must include a mandatory 7-hour interval between 10 pm and 7 am.

It is important to note that there are national laws and regulations in place to determine the maximum length of night work and the limits of night work *overtime*. These guidelines are outlined in Paragraphs 4 and 5 of Recommendation 178³⁴³. Additionally, night workers are guaranteed a minimum period of rest, with special consideration given to women working in establishments. Paragraph 6 of Recommendation 178.³⁴⁴

To ensure the health and safety of workers, measures have been put in place to assess workers' health. In cases where workers are unable to perform night work, they may be transferred to day work as stated in Articles 4 and 6 of Convention 171.³⁴⁵

It is worth noting that certain sectors or categories of workers may be exempt from national laws and regulations on night work, as mentioned in Article 2 of Convention 171. Additionally, provisions have been put in place to protect women who work at night concerning maternity.

³⁴² Holidays with Pay Convention (Revised) in 1970 (No. 132) Article 3- 10.

³⁴³ Ibid. Para 4 -5.

³⁴⁴ Ibid. Para 6

³⁴⁵ Night Work Convention, 1990 (No. 171), Article 4-5

It includes the option of transferring to day work during certain periods before and after delivery, as stated in Article 7 of Convention 171.³⁴⁶

Other than the above-mentioned ‘night work’, ILO instruments. The Maternity Protection Recommendation 191, paragraph 6(4) recognised that pregnant nursing workers' well-being and that pregnant or nursing women should not be required to work at night if a medical certificate declares such work to be incompatible with their condition.³⁴⁷

10.2 Working Hours, Leave, and Night Shift. Global overview:

According to a report published by the ILO in 2023, a considerable number of employees globally were observed to be working beyond the standard 48-hour workweek in 2019, prior to the COVID-19 pandemic outbreak. The study primarily evaluated the actual number of work hours, working time arrangements, and their implications on work-life balance on a global scale.

The report revealed that the Asia-Pacific region had the highest incidence of individuals working for more than 48 hours per week, with almost half of all workers (46.7%) being subjected to long work hours. This was particularly evident in Southern Asia (57.1%) and Eastern Asia (47.7%), where the highest proportion of employees worked extended hours. Conversely, Europe and Central Asia found the lowest percentage of individuals working for more than 48 hours per week (11.0%), notably in Eastern Europe (4.5%).³⁴⁸

Annual leave is a type of break that is provided to employees under the labour laws. It is intended to give workers substantial time off from work, allowing them to spend it as they please. According to global statistics, the majority of countries (33%) provide 20-23 days of annual leave, while the least popular option is 26 or more days (only 2% of countries). However, the situation varies by region. In Europe and Africa, a large percentage of countries (71% and 36%, respectively) offer a global average of 20-23 days of annual leave. On the other hand, almost one-third of countries in Asia (29%) provide less than ten days of annual leave.³⁴⁹

³⁴⁶ Ibid, Articles 2 and 7.

³⁴⁷ Maternity Protection Recommendation 191, paragraph 6(4)

³⁴⁸ ILO (2022). Working Time and Work-Life Balance Around the World. [online] Geneva: International Labour Office. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/publication/wcms_864222.pdf.

³⁴⁹ Ghosheh, N. (2016). Remembering rest periods in law: Another tool to limit excessive working hours. [online] *International Labour Organization*. Available at: <https://www.ilo.org/publications/remembering-rest-periods-law-another-tool-limit-excessive-working-hours> .p16

It is important for workers to have weekly rest periods to take care of their personal and family needs. In fact, 74% of countries worldwide have national labour laws that provide for at least 24 hours of weekly rest. The highest proportion of countries stipulating 24 hours of weekly rest can be found in Africa (82%), Asia and the Pacific (79%), and the Americas (77%). In Europe, only 51% of countries provide at least 24 hours of weekly rest.

However, the ILO conventions and recommendations did not recognise the right to delay rest breaks. Typically, daily rest refers to the time between two work periods, such as the time off between working hours. In the absence of international standards on daily rest breaks, various laws and regulations exist in many countries to ensure that workers are provided with adequate rest breaks during their work shifts. For instance, in Turkish labour laws, employees are legally entitled to a specified duration of rest breaks based on the number of hours they have worked. Specifically, employees are allotted a 15-minute break for up to four hours of work, 30 minutes for work between four and seven hours, and one hour for any work exceeding 7.5 hours. Several countries, including Serbia, Hungary, Japan, Libya, Ireland, and Switzerland, have implemented similar labour laws. It is worth noting, however, that some countries only permit rest breaks if the workday exceeds a certain number of hours.³⁵⁰

It is worth mentioning that a significant number of countries (116 out of 182) have introduced statutory provisions to regulate night work, which is a positive development. Additionally, 78 countries have adopted legislation to regulate night work for pregnant or breastfeeding workers, which suggests that there is growing awareness and concern for the safety and well-being of such workers. While the level of restrictions may vary, it is encouraging to see that steps are being taken to protect vulnerable workers in different parts of the world.³⁵¹

10.3 Working Hours, Leave and Night Shift: National Regulation

The labour acts in Bangladesh have specific provisions aimed at ensuring fair working hours, leave entitlements and night shift arrangements, thereby promoting gender equality in the workplace. According to Sections 100 and 102 of BLA 2006, an adult worker is allowed to work a maximum of 8 hours per day and 48 hours per week without overtime. However, an adult worker may work up to 10 hours per day and up to 60 hours per week with an additional overtime stipend for each extra hour worked. It is important to note that the daily and weekly

³⁵⁰ Ibid. p13

³⁵¹ Addati, L., Cattaneo, U. and Pozzan, E. (2022). *Care at work: Investing in care leave and services for a more gender-equal world of work*. [online] Geneva: International Labour Office. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_838653.pdf [Accessed 2023].p 177

maximum overtime work is limited to 2 hours and 12 hours, respectively. The average weekly working hours in a year should not exceed 56 hours under any circumstances.³⁵² As per Rule 99 of BLR 2015, it is mandatory for the employer to seek the worker's approval and inform them at least two hours prior to the commencement of any overtime work. Moreover, according to Section 99(3) of BLR 2015, employees who are engaged in industries cannot be forced to work for more than 10 hours in a day, including overtime hours.³⁵³

Section 108 of the BLA provides that workers are entitled to receive overtime pay at twice their ordinary rate of basic wage and dearness allowance and ad hoc or interim wage if they work more than the daily work hours.³⁵⁴ The calculation method was stated in Rule 102 of the BLR. The rate of overtime allowance per hour can be calculated using 1/8 of the daily wage, 1/48 of the weekly wage, or 1/208 of the monthly wage, based on 208 hours over one month. If a worker does overtime, the owner or authorised officer must provide a card or slip with their signature. It is worth noting that the production target for workers should not violate Section 100 of BLA, and the calculation of overtime duty should be recorded in Registers according to Form 34. Additionally, the rate of overtime allowance per hour must not be fixed in a way that violates Section 100.³⁵⁵

Moreover, Section 101 of BLA 2006 prohibits any worker from continuing their work or duties after six hours on a given day unless they are granted a one-hour break for rest and meals. It is also required that workers shall be given a half-hour break after they have worked for five hours during the day.³⁵⁶

Weekly holiday is stated in section 103, “comprising a weekly holiday of one and a half days in a store, business, or industrial setting; one day in a factory and establishment. Rule 100 of BLR 2015 states that weekly leave of any factory or institute shall be considered a weekly holiday. The Inspector General can issue gazettes notifying region-wise holidays for the benefit of the masses. This section applies to factories and institutes run by the family members of the owner or those without any workers working in exchange for wages³⁵⁷.

According to Rule 101(1-2) of the BLR, if an employee is deprived of their weekly holiday, they must be granted their due leaves within the subsequent 3 working days.

³⁵² Bangladesh Labour Act (BLA)2006 Section 100 and 102.

³⁵³ Bangladesh Labour Rule (BLR)2015 section 99(1)(3).

³⁵⁴ Bangladesh Labour Act (BAL) 2006.Section 108

³⁵⁵ Bangladesh Labour Rule (BLR)2015 section 102(1-4)

³⁵⁶ Bangladesh Labour Act (BAL) 2006 Section 101,

³⁵⁷ Bangladesh Labour Rule (BLR)2015 section 100

It is important to note that no employee should be compelled to work for more than 10 consecutive days without being granted their weekly leave. As per Section 106 of the BLR³⁵⁸, Sections 115 and 116 of the BLA regulations mention casual and sick leave policies. Workers can take these leaves before or after their weekly or occasional leave without it being counted as casual leave. However, if the weekly or festival leave coincides with their casual or sick leave, it shall be considered part of their original leave. Workers are entitled to proportional leave benefits if they join the workplace at any point during the year.

As per the provisions outlined in section 117(1) (a) of the BLA, an employee who has maintained continuous service for one year is eligible to accrue earned leaves or annual leave with wages in the following year. The rate of accrual is one day for every eighteen days of work completed during that period. Furthermore, according to Rule 107 of the BLR, any employee is entitled to receive monetary compensation for any accrued leave that has not been used. Nevertheless, over half of the accrued leave cannot be converted into cash after the year. The cashing out can only be done once a year. Each year, the maximum allowable amount of earned leave is 60 days.³⁵⁹

Section 118 of BLA 2006 provides 11 days of festival leave per year. Additionally, Rule 110 of BLA 2015 states that employers are responsible for determining festival holiday dates following regulations. Any employees who work on a festival holiday will receive two days of paid compensatory leave and a substitute holiday following Section 103.

The BLA 2006, section 106 defines “night shift” as an adult worker's shift work in an establishment that extends beyond midnight. In addition, section 109 states, ‘No woman worker shall, without her consent, be allowed to work in an establishment between 10 p.m. and 6 a.m.’³⁶⁰ Section 109 restrains the female workers from the night shift. The issue of consent was clarified in Rule 103 of BLR 2015, and the consent should be taken in writing in Form 34. The given consent will be valid for 12 months unless it is revoked.

The Bangladesh EPZ Act 2019 contains provisions that govern the working hours, rest periods, weekly holidays, and leave entitlements of employees working within the zones. Section 38 of the Act outlines the daily working hours, while section 40 specifies the weekly work hours, thus providing clarity on the maximum number of hours that can be worked in a week. Additionally, section 39 describes the rest period, and section 41 covers the allocation of

³⁵⁸ Bangladesh Labour Rule (BLR)2015 Section 106.

³⁵⁹ Bangladesh Labour Act (BAL) 2006 Sections 103, 115,116,117

³⁶⁰ Bangladesh Labour Act (BAL) 2006 Section 109,

weekly holidays, which are important components of employee welfare. Importantly, the Act also guides the policy for casual, sick, annual, and festival leave in sections 50, 51, 52, and 53, respectively, like BLA 2006.

It is important to note that workers are entitled to a weekly holiday as per section 41. If any employer fails to provide this, compensatory holidays must be given within the following 6 days, equal to the number of holidays they were deprived of. It ensures that workers get the rest they need and deserve, section 107 of EPZ Labour Rule 2022³⁶¹.

Regarding night shift provisions for EPZ workers, under the EPZ Labour Act 2019, section 43, it is similar to the BLA 2006. However, it is essential to ensure that female workers are not working between 8 pm and 6 am in any establishment without their consent, as per section 46. If any workers provide written consent, it will be automatically revoked after 30 days, section 109(2)³⁶². This helps safeguard female workers' rights and ensure a safe and healthy working environment.

10.4 Working hours, Leave and Night shift: practice in the RMG industry

The working hours leave policies and night shift practices in the RMG industry have been a subject of concern for workers' well-being and work-life balance. The current study presents an in-depth analysis of the legislative practices in the RMG factories operating outside the EPZs based on data collected from the Kormojibi Nari (KN) survey conducted between 2018 and 2019, the ILO 2017 baseline study report, and personal surveys. The data have been analysed to provide a comprehensive overview of current practices in the industry, as presented in Table 8.

³⁶¹ Bangladesh EPZ Labour Rule (EPZ rule) 2022, section 107

³⁶² Ibid. section 109(2)

Table 8
Working Hours and Leaves

KormojibiNari	December 2018 ³⁶³	March 2019 ³⁶⁴	April 2019 ³⁶⁵	ILO 2017 ³⁶⁶	personal ³⁶⁷ survey
Minimum 10hrs	61%	55%	52.2%	28.37%	92%
More than 10 hrs	34%	34.2%	34.2%	1.5%	32%
Prefer overtime	96.3%	98%	91.4%	59%	83%
Lunch break	100%	100%	100%	100%	100%
No rest break	95.6%	96%	94.5%	97%	93%
Weekly holiday	98%	99.4%	99.6%	98%	100%
Sick leave	96%	79.3%	78.4%	93%	71%
Casual leave	68%	74.4%	79.2%	55.92%	76
Annual leave	77.9%	32.5%	38.8%	42.79%	65%
Night shift	28.7%	43.6%	30.7%	50%	68%
No consent takes	48.8%	54.8%	61.7%	98%	68%

Source: made by author

Upon examining the table, several conclusions can be drawn. Firstly, almost 92% of labours work no less than 10 hours per day, leaving only a small fraction of workers who work fewer than 10 hours per day. Moreover, it is noteworthy that a considerable proportion of employees, approximately 96.3%, favour working overtime.

³⁶³ Karmojibi Nari (2018). *Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh*” (Fact sheet december). [online] Karmojibi Nari | কর্মজীবী নারী. Available at: <https://www.karmojibinari.org/report/> [Accessed 13 Jun. 2021].

³⁶⁴ Karmojibi Nari (2019). *Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh*” (Fact sheet march). [online] Karmojibi Nari | কর্মজীবী নারী. Available at: <https://www.karmojibinari.org/report/> [Accessed 13 Jun. 2021].

³⁶⁵ Karmojibi Nari (2019). *Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh*” (Fact sheet April). [online] Karmojibi Nari | কর্মজীবী নারী. Available at: <https://www.karmojibinari.org/report/> [Accessed 13 Jun. 2021].

³⁶⁶ ILO report (2019). “Improving Working Conditions in the Ready-Made Garment Sector: Bangladesh Baseline Study (January – May 2017)”. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_735614.pdf [Accessed 11 December 2021]

³⁶⁷ Information collection by a personal interview with the female workers.

In terms of breaks, all workers seem to take a lunch break, while a small percentage, around 5.6%, do not take any rest breaks. This could be a cause for concern, as workers need to take regular breaks to avoid burnout and ensure productivity.

Regarding leaves, it is concerning to see that only around 32.5% of workers took annual leave in March 2019. This could indicate a lack of awareness about the importance of taking leave to maintain work-life balance. Furthermore, sick leave seems to have decreased significantly from December 2018 to April 2019, indicating that workers may be coming to work despite being sick, which could lead to the spread of illness among colleagues.

In 2016 research, Islam and Ahmed observed that the absence of adequate shipment planning results in workers outside the EPZ working day and night shifts. However, no such night shifts are observed in the EPZ garment factories. Most workers in the EPZ garment factories seem satisfied with their working hours, but those outside the EPZ factories have a non-aligned attitude on the matter. As per findings, 48.33% of workers inside EPZ garment factories and 45% of workers outside EPZ garment factories are satisfied with their working hours.

Previously, the EPZ had different policies for earned leave between their workers and those outside the company. Inside workers receive 1 day of earned leave for every 22 days worked, while outside workers receive one day for every 18 days worked. Inside workers have the option to encash their earned leave in full, whereas outside workers can only encash 50% and must take the rest of their leave time. The majority of EPZ workers (48.33%) are content with their earned leave, while the majority (52.778%) of all workers are satisfied with their holiday benefits.³⁶⁸ Although under the EPZ Labour Act 2019, earned leave is now calculated as 1 day for 18 days, section 52.³⁶⁹

Further, research by Saha in 2023, non-EPZ female workers are often forced to work longer hours, up to 10-13 hours per day, with only payment for 2 hours of overtime. The study found that 21% of 200 women workers worked 8 hours, 38% worked 10 hours, and 41% worked more than 10 hours per day, indicating a violation of labour laws. Only 6.5% reported not receiving payment for overtime, 98% received payment for 2 hours daily, and 44.5% received payment for all overtime hours.

³⁶⁸Islam, M. and Ahmad, M., 2016. Impact of Dissimilar Laws and Rules on Worker's Satisfaction in Ready-Made Garments of Bangladesh: A Comparative Study between the Factories Inside EPZ and Outside EPZ. *International Journal of Management and Business Studies (IJMBS)* Vol, 6.

³⁶⁹ Bangladesh EPZ Labour Act (EPZ Labour act) 2019, section 52.

This discrepancy between labour laws and actual working conditions in the RMG industry in Bangladesh highlights the need for improved enforcement of laws and protection of workers' rights.³⁷⁰

Overall, factory owners need to prioritise the physical and mental well-being of their workers by ensuring they take adequate breaks and leave and are not overworked. This approach can foster job satisfaction and productivity. Data showed in the table that a significant number of female workers are obligated to work night shifts, with a considerable proportion not providing consent. Employers should arrange the safety and consent of their female workers by exploring alternative work schedules or arrangements, thus creating a fair and safe work environment for all employees.

10.5 Compliance with ILO Standards and Enforcements

On 22 June 1972, Bangladesh ratified several International Labour Organization (ILO) conventions that govern employment practices. Among these were the Hours of Work (Industry) Convention 1919, the Night Work (Women) Convention 1919, and the Weekly Rest (Industry) Convention 1919. Additionally, the country assented to the Night Work (Women) Convention (revised) 1948.

Both Labour Acts comply with Convention 1's requirements of 8 hours daily and 48 hours weekly working hours. The BLR and EPZ Labour Rules oblige the owner to notify the workers 2 hours before the overtime starts. Owners also need to pay for overtime and cannot force workers to work more than 10 hours.

Regardless of compliance with working hours, enforcement of the Labour laws in the RMG industry is unsatisfactory. Unfortunately, it is common for workers to work at least 10 to 12 hours, often exceeding the legal overtime limit, especially when shipment time is constrained and the target is high.³⁷¹

There have been reports of certain workers putting in 4 to 5 hours of overtime daily. Female workers choose overtime to earn a sufficient income. Additionally, it is standard practice in the

³⁷⁰ Islam, Mohd.S. and Ahmad, Md.H. (2016). Impact of Dissimilar Laws and Rules on Worker's Satisfaction in Ready-Made Garments of Bangladesh: A Comparative Study between the Factories Inside EPZ and Outside EPZ. *SSRN Electronic Journal*, 6(3).<https://dx.doi.org/10.2139/ssrn.2849314>.

³⁷¹ Islam, Md.M. (2018). *Workers Rights & Gender Based Violence in the RMG and TU capacity to Deal with These*. [online] Bangladesh Institute of Labour Studies - BILS. Available at: <https://bilsbd.org/research-report/> [Accessed 12 Jun. 2022].

RMG sector to establish production goals, and many factories set high daily targets that unintentionally compel workers to work overtime as they cannot depart until the target is met.³⁷²

According to a 2018 study conducted by the Bangladesh Garment Sramik Sanghati (BGSS), workers in the garment industry in Bangladesh put in an average of 60 extra hours per month, which is equivalent to 30% more than the usual working hours. This is in addition to the 28 hours of overtime worked beyond the legal limit stipulated in the BLA 2006. On average, these workers put in an extra 2.5 hours beyond their regular eight-hour shifts. With these 60 hours of extra work, they only earn 1915 TK.³⁷³

Furthermore, starting in 2022, the government has decided to extend overtime hours for workers in the export-oriented RMG for six months. Before this, workers were limited to eight hours per day and 48 hours per week, with the option of working an additional two hours of overtime each day. The Ministry of Labor and Employment has implemented this increase through a circular, which will take effect on April 17th. It is important to note that workers must be compensated with double wages for any overtime worked, and no worker can be compelled to work more than four hours in a day.³⁷⁴ By disregarding the law, female workers were burdened with additional workloads as most of them would do overtime for double pay.

According to Convention 14, employees are entitled to take one day off per week. If they are required to work on that day, they must be given compensatory leave within three days (for workers outside EPZs) or within six days (for workers inside EPZs). The act also highlights that employees outside EPZs are prohibited from working continuously for more than ten days, while those inside EPZs are not permitted to work beyond thirteen days.³⁷⁵ This time discrepancy may create discrimination between EPZ and non-EPZ workers.

³⁷²Hossain, J., Ahmed, M. and Akhter, A. (2021). *Watch Report on Rights Implementation Status of Women Workers in Bangladesh's Ready-Made Garment Industries*. [online] Karmojibi Nari | কর্মজীবী নারী. Available at: <https://www.karmojibinari.org/watch-report-on-rights-implementation-status-of-women-workers-in-bangladeshs-ready-made-garment-industries/> [Accessed Aug. 2022].

³⁷³ RMG workers have to work 28 hrs more than normal: Study. (2017). *The Financial Express*. [online] Available at: <https://thefinancialexpress.com.bd/trade/rmg-workers-have-to-work-28-hrs-more-than-normal-study-1536120044> [Accessed 20 Jan. 2020].

³⁷⁴ Govt allows two more hours of overtime for RMG workers. Rise in orders, lack of workers main reasons. (2022). *The Financial Express*. [online] 1 Jun. Available at: <https://thefinancialexpress.com.bd/trade/govt-allows-two-more-hours-of-overtime-for-rmg-workers-1654052827> [Accessed 20 Jan. 2022].

³⁷⁵ Hossain, J. (2013). STANDARDS-RIGHTS NEXUS IN ACTION IN BANGLADESH: TRANSFORMING LABOUR STANDARDS INTO WORKERS' RIGHTS. In: *In Labour Law Research Network Inaugural Conference*. [online] Available at: https://www.upf.edu/documents/3298481/3410076/2013-LLRNConf_Hossain.pdf.

Despite not ratifying the Holidays with Pay Convention (Revised) in 1970 (No. 132), Bangladesh has incorporated provisions for paid leave in its Labor Acts. Table 2 shows that weekly holidays and festival leaves are satisfactorily enforced in the RMG industry. However, some workers still face violations when it comes to taking sick, casual, and annual leave. Although the Labor Acts compensate for annual leave with cash benefits, this option often discourages workers from taking time off and instead leads them to prioritise earning extra money.

Convention 89 sets out provisions for the protection of female workers, including a specified timeframe during which women should not be employed for night shift work. Both BLA 2006 and the EPZ Labour Act 2019 prohibit female workers from working during the night shift. Despite this, the provision is often disregarded in RMG industries, where women constitute the majority of the workforce. They are frequently required to work night shifts during periods of high order volume and tight shipment deadlines. Unfortunately, the consent clause does not provide adequate protection for female workers, as employers can still force them to work, even with their consent.³⁷⁶

There are some timing differences, and disparities can be observed between the two acts. The night shift for female employees in EPZ starts at 8 PM, while for non-EPZ workers, it starts at 10 PM. Additionally, under the EPZ Labour Rule 2022, employers are required to provide safe transportation for female workers during night shifts. However, there is no such provision for non-EPZ workers under the BLR. In previous studies, workers reported that employers do not provide any transportation for non-EPZ workers.³⁷⁷

It is crucial to note that there is a difference between the BLR 2015 and the EPZ Labour Rule 2022 regarding written consent for night shifts. Under the BLR 2015, any given employee consent remains valid for a maximum of 12 months. However, under the EPZ regulations, the consent is only valid for 30 days unless revoked. This legal distinction puts non-EPZ workers at a disadvantage since, after giving written consent, they will be obliged to work night shifts for an extended duration, which could be up to 12 months.

³⁷⁶ Hossain, J., Ahmed, M. and Hasan, J. (2018). *Core Labour Standards Plus Linking trade and decent work in global supply chains Linking Trade and Decent Work in Global Supply Chains in Bangladesh*. [online] Friedrich-Ebert-Stiftung Asia. Available at: <https://library.fes.de/pdf-files/bueros/bangladesch/14406-20180614.pdf> [Accessed 2021].

³⁷⁷ Karmojibi Nari (2019). Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh” (Fact sheet April). [online] *Karmojibi Nari | কর্মজীবী নারী*. Available at: <https://www.karmojibinari.org/report/>. [Accessed 13 Jun. 2021].

This situation may create a scenario where non-EPZ workers do not have the same flexibility and control over their work schedule as their EPZ counterparts. This lack of flexibility could lead to concerns about work-life balance and overall job satisfaction.

In the RMG industry, female workers receive enough lunch breaks, but they do not get extra rest breaks due to the high production target. Therefore, they are often deprived of rest, which is necessary for this type of job, as they sit in one position for a long time.

11 Working Hours: Legislative Approaches in the EU and Bangladesh

The European Union has implemented a series of protective measures concerning the safety and health of workers, which includes a night work clause and a maximum working hours clause, outlined in the Working Time Directive of 2003 (Directive 2003/88/EC)³⁷⁸ To comply with EU directives, Poland's Labour Code establishes that the standard workday consists of eight hours, with a maximum of forty hours per week. Poland permits various working time systems to meet operational needs, including working hour equivalents and task-based systems. Additionally, there are specific limitations on night work for certain groups, such as young workers and pregnant employees.³⁷⁹

In Hungary, night work is defined as work conducted between 10 PM and 6 AM, with restrictions on such work for pregnant women and single parents with children under the age of three. For employees not in these categories, the Labour Code permits a standard workday of eight hours, with a maximum of twelve hours per day and forty-eight hours per week for full-time work.³⁸⁰

To align more closely with European Union standards, Romania has limited the average weekly working hours to 48 or fewer, which allows for the inclusion of overtime. The hours between 10 PM and 6 AM are classified as late-night or early-morning work hours, and individuals identified as night workers are entitled to fewer working hours. A set working time of seven hours is established for night workers without salary deductions.

³⁷⁸ Europa.eu. (2003). *Directive - 2003/88 - EN - Working Time Directive - EUR-Lex*. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2003/88/oj/eng> [Accessed 25 Oct. 2024].

³⁷⁹ Your Europe in Poland. (n.d.). *Working time setting and settlement - Your Europe in Poland - Gov.pl website*. [online] Available at: https://www.gov.pl/web/your-europe/working-time-setting-and-settlement?utm_source=chatgpt.com. [Accessed 12 Jan. 2024].

³⁸⁰ cms.law. (2023). *Labour law and regulation in Hungary | CMS Expert Guides*. [online] Available at: <https://cms.law/en/int/expert-guides/cms-expert-guide-to-labour-law-in-central-eastern-europe/hungary>.

These workers are required to undergo regular medical tests, and pregnant or nursing women are prohibited from performing night work³⁸¹.

In contrast, according to the Bangladesh Labour Act (BLA) of 2006, female workers in Bangladesh are permitted to work alone between 10:00 PM and 6:00 AM if they provide their consent. The standard working hours are capped at eight hours per day and forty-eight hours per week, with the option for overtime not exceeding ten hours per day and sixty hours per week. Workers assigned to night shifts receive compensation for 24 hours for each shift worked.³⁸²

Both EU member states and Bangladesh have established legal frameworks that govern working hours and night shifts to protect female workers. However, EU directives typically enforce more stringent protections, particularly concerning health assessments and specific restrictions for vulnerable groups, such as pregnant or nursing women. While the regulations in Bangladesh offer fundamental protections, challenges related to enforcement and limitations in coverage, especially within the informal sector, may affect their effectiveness in safeguarding the health and well-being of female workers.

12 Gender-based facilities at the workplace

Access to welfare facilities such as toilets, canteen, restrooms, and others is a fundamental labour and human right. Gender-segregated facilities are needed to address privacy and hygiene concerns for women, who are currently forced to share toilets with men despite having different hygiene practices due to menstrual cycles.³⁸³ It can also source economic and gender disparities, as women may have to miss work hours and lose wages. Moreover, inadequate, separate facilities can increase the risk of sexual harassment and assault against women. Therefore, it is of extreme importance for employers to promote safety and equality in the workplace by providing appropriate sanitation and other facilities. These facilities should be well-maintained, private, and hygienic. Regular reviews should also be conducted to ensure the highest standards are maintained.³⁸⁴

³⁸¹ Boundless. (n.d.). *Working Hours in Romania* | Boundless EOR. [online] Available at: <https://boundlesshq.com/guides/romania/hours-of-work/>.

³⁸² Bangladesh labour act 2006 (BLA 2006).

³⁸³ Sharmin, M. (2024) *How female-friendly are our office restrooms?*, *The Daily Star*. Available at: <https://www.thedailystar.net/opinion/views/news/how-female-friendly-are-our-office-restrooms-3540246>.

³⁸⁴ Aïdara, R, 2020. Poor access to wash: a barrier for women in the workplace. Social Protection and Human Rights. 16 November 2016.

12.1 Welfare Facilities: International Standard

The United Nations (UN) passed two resolutions recognising the importance of safe and clean drinking water and sanitation as basic human rights necessary for the enjoyment of all other human rights. The first resolution was adopted on 28 July 2010 (Resolution 64/292), while the second was adopted on 18 December 2013 (Resolution 68/157) and titled "The human right to safe drinking water and sanitation". In its resolution adopted by the General Assembly on 17 December 2015, the UN reaffirmed the recognition of safe, hygienic sanitation and safe drinking water as human rights.

The UN adopted a resolution in 2015, para 2, recognising the vital role of hygienic toilets and safe drinking water in ensuring an acceptable standard of living. The resolution is a call to action, urging all nations to prioritise access to adequate, safe, acceptable, and affordable water for personal and household use without discrimination. It also emphasises the authority of providing safe, hygienic, secure, socially and culturally acceptable sanitation facilities that ensure privacy and dignity without discrimination. These basic human rights should be protected and upheld as an integral part of the right to an adequate standard of living. According to para 6 of the resolution, it is crucial that all non-state actors, including transnational and other business enterprises, fulfil their responsibility to protect human rights, such as the right to access safe drinking water and sanitation. This responsibility includes cooperating with investigations into any alleged violations of these rights and working with States to address and prevent such abuses from occurring in the future.³⁸⁵ The resolution calls for a gender-sensitive approach in the workplace to protect female workers.

Further, the UN resolution in 2017 reaffirmed and recognised the resolution of 2015 and invited regional and international organisations to complement efforts by States to progressively realise the human rights to safe drinking water and sanitation, para 6.³⁸⁶

The ILO Hygiene (Commerce and Offices) Convention 1964 (No.120) and Recommendation recognises welfare facilities, including drinking water, toilets, restrooms, canteen, etc, at workplaces. Convention 120 Articles 12,13 and 15 detail the important criteria necessary to provide workers with access to fundamental amenities, including clean drinking water, proper

³⁸⁵ UN Resolution, The human rights to safe drinking water and sanitation, 2015 . Para2 and 6. <https://documents.un.org/doc/undoc/gen/g14/186/39/pdf/g1418639.pdf?token=W0RLQYGSEn6RPHxJ3y&fe=tue>

³⁸⁶ UN Resolution, The human rights to safe drinking water and sanitation, para 1, 2, 4 -6. <https://documents.un.org/doc/undoc/gen/n17/456/61/pdf/n1745661.pdf?token=IYKvCUxM6wFuCGZYrE&fe=tue>.

washing facilities, and hygienic toilets in the workplace. Furthermore, it emphasises the importance of adequate spaces for changing, storing, and drying personal clothing not worn during work hours. Further, Article 19 requires the workplace to be equipped with a first aid box and dispensary.³⁸⁷

Following para 8 (20-31) of Recommendation 120, employers must ensure workers have access to clean drinking water, preferably through running water systems. Containers should be tightly closed, clearly labelled, and clean. Workers should have access to enough drinking vessels and facilities for washing. Water not approved for drinking should not be distributed unless authorised by health authorities.³⁸⁸

Under Recommendation No.120 para 10(37-41), employers should provide sanitary facilities for workers, ensuring privacy and hygienic cleaning materials. Separate facilities should be provided for men and women. The competent authority should determine the number of toilets and urinals for men and women according to the number of workers, and it should be well-ventilated.³⁸⁹

Every establishment or factory should have separate washing facilities for men and women. Workers should have access to suitable washing facilities, including washstands and showers with hot water, as well as soap and appropriate products. Towels should be available for personal use but not for common use. Water should not pose health risks and should be clearly indicated as not fit for drinking, according to Recommendation No. 120, para 9 (32-36).³⁹⁰

Establishments, institutions, or factory authorities must have their own dispensary, first-aid box or cupboard. It can be owned by them or in partnership with others. The equipment required should be determined by the competent authority based on the number of workers and the nature of the risk expected. It is necessary to check and restock the first aid box every month. Every kit should have clear instructions for emergency use and must be labelled. Dispensaries and first-aid boxes should be easily accessible by workers and managed by a designated person, as stated in Recommendation No. 120 para 17(63-65).³⁹¹

According to ILO Recommendation 120, para. 18 (66-68), factories and establishments must have a dedicated mess or canteen room. The mess room should have ample seating

³⁸⁷ Hygiene (Commerce and Offices) Convention 1964. Article 12 13 and 15

³⁸⁸ Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120). Part 8

³⁸⁹ Ibid para 10

³⁹⁰ Ibid para 9

³⁹¹ Ibid para 17

arrangements and tables, heating facilities for meals, access to cool drinking water and hot water, and covered waste bins. Furthermore, the mess room should be situated in a separate area from toxic substances, and contaminated work clothing should not be allowed in the mess room³⁹². Finally, the area must be Restroom is an important component of workplace facilities. According to Recommendation 120 para 19(69-70), the competent authority should provide restrooms for workers when alternative facilities are unavailable, especially for women, in case of hard work or special workers, or those on broken shifts. National laws or regulations should empower the authority to require restrooms, which should include climate-suitable facilities, adequate ventilation and lighting, and sufficient seating facilities.³⁹³

Further, Convention and Recommendation 120 outlined a healthy working environment requirement. Employers should ensure that the establishment and factories have good ventilation, a comfortable working temperature, suitable lighting, sufficient room space, suitable workstations and seating, and a clean workplace. These factors contribute to a comfortable and productive work environment.

The Recommendation suggests implementing its provisions through various approved methods, such as national laws or collective agreements, after consulting with representative organisations of employers and workers. It also emphasises the need for measures like inspections to ensure compliance with hygiene laws and the enforcement of penalties to ensure the Recommendation's implementation

12.2 Welfare Facilities: National Legislation

For female workers to work comfortably, the toilet, restroom, canteen, drinking water, and other facilities are integral issues. These rights can ensure an excess of women in the labour market. Bangladesh labour acts to ensure these rights. The BLA 2006 section 58 requires employers to designate a suitable location to provide drinkable water to all employees within a workplace, clearly labelled as "Drinking water" in Bangla. In cases with more than 250 employees, arrangements are made to provide cooling water during the summer months. Additionally, workers who experience dehydration while performing tasks near machinery receive oral rehydration therapy to ensure their well-being.

Further, to facilitate section 58, the BLR 2015 Rule 50 stated that water should be kept in a germ-free container that is changed daily to ensure its purity.

³⁹² Ibid para 18

³⁹³ Ibid para 19

However, modern water purification processes have made it possible to reduce the frequency of changes. The area where the water is supplied should be clean and well-maintained, with a proper drainage system. If underground or tube well water is used, the owner must obtain a certification from the public health engineering department or an approved organisation. For firms with more than 250 workers, the water supply should be provided once a year from April 1st to September 30th. In case of extreme heat, the workers should be provided with oral saline or sugar drinks, with a daily supply of at least one litre per worker near the selected place.

The BLA 2006 section 59 states that every establishment should place enough separate toilets or washrooms with enough light, air, and water for its male and female workers in a suitable place so that workers can always use them when they are present in the establishment³⁹⁴. Rule 51 of BLR outlines the provisions for toilets and bathrooms in establishments. As per the Bangladesh Gazette Extraordinary, September 15, 2015, specifies the number of facilities for male and female workers under Schedule 2. Female workers are allotted 1 toilet for every 25 females up to the first 100 and 1 more for every 50 thereafter. Male workers are allotted 1 toilet for every 40 males up to the first 100 and 1 for every 60 thereafter. The layout plan for the factory or establishment must clearly indicate the location of the toilets or bathrooms, and separate approval is required if they are located outside the establishment.³⁹⁵

To ensure workers' ease of movement, toilets and bathrooms must be located in a suitable location with ample light and ventilation. Both male and female toilets must be marked in Bangla for workers to acknowledge, and the bathrooms and toilets must be cleaned daily. The walls, internal roofs, and floors must be whitewashed and painted at least once a year, and any surfaces decorated with bright tiles or other materials must be cleaned with effective anti-rubbish and antiseptics.³⁹⁶

Additionally, establishments or factories should provide adequate washing facilities for workers, separate for male and female workers, and be properly screened. These facilities must be clean, easily accessible, and always maintained in section 91(1a-c).³⁹⁷ The government can set standards for these facilities to comply with Section 91 of BLA 2006; it is important to adhere to the guidelines outlined in Rule 86 of BLR 2015. This rule specifies that institutes must provide adequate, clean, and orderly cleaning and washing facilities. These facilities should include soap, disinfectant, and nail brushes for cleaning nails.

³⁹⁴ Bangladesh Labour Act (BLA) 2006 Section 59

³⁹⁵ Bangladesh Labour Rule (BLR)2015, Rule 51 and Schedule 2

³⁹⁶ Ibid. Schedule 2 Rule 4

³⁹⁷ Bangladesh Labour Act (BLA) 2006 Section 91

In addition, at least two separate bathrooms should be provided for the first 25 male and female workers, with an additional bathroom for every 50 workers. The Inspector will determine the appropriate proportions of these facilities based on the needs and habits of the workers. One tap should be installed for every 15 workers for hazardous materials handling. Separate bathrooms should also be arranged for female workers, and the facilities should be covered to ensure privacy.³⁹⁸ According to Schedule 2 Rule 2(a), one bathroom should be provided for every 100 male workers.³⁹⁹

The BLA 2006 also provides a canteen facility in the workplace. Under section 92(1), adequate canteens must be provided in any establishments with over 100 workers.⁴⁰⁰ Further, BLR 2015 Rule 87 clarifies the details of canteen facilities. Any factory with over 100 workers must provide a canteen with enough space for at least 10% of the total number of workers. The canteen must be permitted by the Inspector General or an authorised inspector and cannot be built within 6 meters of bathrooms or 15 meters of boiler houses or sources of smoke or harmful gases. The canteen must have a dining hall, kitchen room, store, pantry, and separate washing utensil arrangements for male and female workers. The canteen committee is responsible for maintaining the facilities.⁴⁰¹

The BLA 2006 also requires employers to establish restrooms and dining areas for workers. In an establishment or factory where more than 50 workers are typically employed, an appropriate and acceptable number of restrooms should be provided and maintained for the use of the workers. A suitable lunch room with arrangements for drinking water shall also be provided and kept in that establishment so that the workers may eat the meals that they may have brought with them. Lunch rooms and restrooms should have proper light, ventilation, and cleanliness. For establishments employing more than 25 female workers, separate restrooms and dining areas should be arranged, while for those employing less than 25, separate screened spaces should be provided in the restrooms, section 93. This section was supplemented by Rule 92 of BLR 2015, which states that the dining room should have a capacity of no less than 15% of the entire workforce, with tables and benches organised in proportion to the number of workers.

³⁹⁸ Bangladesh Labour Rule (BLR) 2015, Rule 86

³⁹⁹ Ibid. Schedule 2, 2(a)

⁴⁰⁰ BLA 2006 Section 92(1)

⁴⁰¹ Bangladesh Labour Rule (BLR) 2015 Rule 87.

The Inspector General has the authority to modify accommodation ratios by providing⁴⁰² written notification. Separate. A portion of the dining room and its serving counter will be designated for female workers, with a screening to provide separation.⁴⁰³

The BLA 2006 section 87 also protects female workers from some dangerous and harmful tasks and locations, as stated in sections 39, 40, 42 and 87⁴⁰⁴. For the welfare of the workers, both men and women, the employer must provide first aid boxes or an almirah (closet) equipped with the first aid materials prescribed by law, and it must be easily accessible to the workers. There should be at least one first aid box for every 150 workers, and if the number of workers is 300 or more, the employer must arrange an equipped dispensary with a patient room, a doctor and nursing staff. BLA 2006, Section 89(4-5)⁴⁰⁵. Rule 76(2) of BLR 2015 outlines the contents of the first aid box.

The Bangladesh EPZ Labour Act of 2019 outlines specific worker safety and welfare provisions. Section 35(2) (e h i) requires that first aid facilities, separate toilets, drinking water, and washing facilities be made available.⁴⁰⁶ Additionally, according to Rule 43(4) of the EPZ Labour Rule 2022, a comprehensive list of stocked first aid kits must be provided. Rule 48(2) clarifies that men and women should have access to separate toilet facilities. Furthermore, Schedule 1 of the EPZ Labour Rule specifies the same number of separated toilet requirements as outlined in BLR Schedule 2. Finally, Rules 49, 57, 58, and 63 outline the required conditions for drinking water, washing facilities, canteens, and dining areas⁴⁰⁷. These regulations are similar to those found in BLR 2015. Additionally, Section 35(3e) EPZ Labour Act protects female workers from engaging in hazardous work.

The BLA 2006 provides a comprehensive framework for maintaining optimal standards of cleanliness, ventilation, temperature, dust and fume control, waste and effluent disposal, overcrowding, and lighting within establishments and factories. Sections 51 to 57 provide an in-depth explanation of these standards.⁴⁰⁸ Additionally, EPZ Labour Act section 35(3b) stated similar requirements.

⁴⁰² Bangladesh Labour Act (BLA) 2006 Section 93

⁴⁰³ Bangladesh Labour Rule (BLR) 2015 Rule 92.

⁴⁰⁴ Bangladesh Labour Act (BLA) 2006 Section 39,40,42, and 87

⁴⁰⁵ Bangladesh Labour Act (BLA) 2006 Section 89

⁴⁰⁶ Bangladesh EPZ Labour Act (EPZ Act) 2019. Section35.

⁴⁰⁷ Bangladesh EPZ Labour Rule 2022 Rule 43,48, 49,57,58 and 63

⁴⁰⁸ Bangladesh Labour Act (BLA) 2006 Section 51-57

12.3 Welfare facilities in the RMG industry

An extensive examination of multiple research reports has been undertaken to better understand the welfare facilities accessible to female workers in the RMG sector. Table 9 provides an analysis of the welfare facilities available in the industry. The data have been collected from sources such as the Kormojibi Nari survey conducted in 2018 and 2019, the ILO survey in 2017, and personal survey findings. This analysis aims to identify potential areas for improvement and develop strategies to enhance the overall welfare of workers.

Table 9
Gender-based and welfare facilities

kormojibiNari	December 2018 ⁴⁰⁹	March 2019 ⁴¹⁰	April 2019 ⁴¹¹	ILO 2017 ⁴¹²	personal ⁴¹³ survey
Separate canteen	83.3%	59.5%	75.4%	54.8%	15%
Separate dining/lunchroom	86.3%	64%	69.9%	10.9% no	18%
Separate/no restroom	100%	87.6% no	2% yes	46.7% no	0% no
Separate toilet	66.5%	51.9%	67.8%	90.8%	95%
First aid box	88.6%	63.3%	84.5%	98%	98%

Source: made by author

Based on the information provided in Table 9, it appears that the availability of welfare facilities in the workplace has improved over time. For example, the percentage of respondents reporting access to a separate canteen increased from 59.5% in March 2019 to 75.4% in April 2019. Similarly, the percentage of respondents reporting access to separate toilets increased from 66.5% in December 2018 to 90.8% in April 2019.

⁴⁰⁹ KormojibiNari (Factsheet December 2018) “Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh” [Available at <https://www.karmojibinari.org/report/>]

⁴¹⁰ KormojibiNari (Factsheet March 2019) “Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh” [Available at <https://www.karmojibinari.org/report/>]

⁴¹¹ KormojibiNari (Factsheet, April 2019) “Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh” [Available at <https://www.karmojibinari.org/report/>]

⁴¹² ILO report (2019). Improving Working Conditions in the Ready-Made Garment Sector: Bangladesh Baseline Study (January – May 2017). Available at: <https://www.ilo.org/wcmsp5/groups/public/---> Accessed 11 December 2021]

⁴¹³ Information collection by a personal interview with the female workers.

However, there are still some areas where improvements could be made. For instance, the percentage of respondents reporting access to separate or no restrooms was only 2% in March 2019 and 54.01% in April 2019, which indicates that more work needs to be done to ensure that all employees have access to safe and hygienic restroom facilities. Based on the report for ILO 2017 and the personal survey conducted, it was found that the separate toilet and first aid facility are adequate. However, some other facilities may need improvements to meet the desired standards.

Overall, while there have been some positive changes in the availability of welfare facilities, ongoing efforts to improve and maintain these facilities in the workplace remain necessary.

Further, another study's findings indicate that the food quality at the EPZ factory's canteen was healthy and safe nature of the food according to EPZ workers. It was observed that some employees were mindful of their health and dietary needs. While there were differences in access to clean drinking water between EPZ and non-EPZ industries, most of the participants were satisfied with the sanitation facilities provided. Based on these findings, it can be concluded that EPZ factories are making efforts to promote the welfare of their workers, and there is room for further progress in the coming years.⁴¹⁴

A recent survey of 200 non-EPZ female workers in 2023 has shed light on the challenges faced by the garment industry when it comes to providing hygienic and safe facilities for female workers. The survey revealed that despite the availability of separate toilets, only 83.7% of respondents had access to them. Cleanliness was a major concern, with only 11.4% of the respondents reporting that washrooms were clean. Moreover, access to safe drinking water was a worry for 38.6% of those surveyed, while only 47.5% had access to primary medical facilities. Proper ventilation was also a concern, with just 34.2% of respondents having access, while 64.9% reported that they did not. The garment industry must prioritise the welfare of its female workers by providing better facilities, as highlighted by recent findings. Despite some improvements, there is still a significant lack of proper facilities and access to safe drinking water, which poses potential health risks and financial challenges. Poor hygiene practices also persist among workers, emphasising the need for further improvements.⁴¹⁵

⁴¹⁴ Razu, S.R., Hasan, M.K., Ela, M.Z., Nishu, N.A., Sikder, R., Rahman, M.A. and Chanda, S.K., 2022. " While we work in extreme heat, our bosses work in air-conditioned rooms." Exploring the health and safety of garment workers in factories in Bangladesh. *International Public Health Journal*, 14(2).

⁴¹⁵ Saha, H., 2023. Rights of the Women Worker of Readymade Garment Industry in Bangladesh: Gaps Between Law and Practice. *Journal of Law and Society*, 6(1), pp.102-111.

12.4 Welfare Facilities: Compliance with ILO and Enforcement

The government of Bangladesh did not ratify Convention 120 in compliance with the ILO Convention and Recommendation 120. However, the Bangladesh Labour Act 2006 and the Bangladesh EPZ Labour Act 2019 ensure the provision of health and hygiene facilities for all workers. These acts comply with ILO Convention 120 and Recommendation 120, requiring employers to provide workers with adequate welfare facilities, such as clean drinking water, hygienic toilets, and suitable washing facilities. Employers are also required to provide a canteen or dining area and restroom. The EPZ Labour Act 2019 mandates the establishment of a joint health and safety committee to oversee compliance with occupational health and safety standards. Both acts also mandate first-aid facilities, with the BLA 2006 requiring a first-aid box and a trained person to administer treatment and the EPZ Labour Act 2019 requiring a first-aid room or facility for a large number of workers. Additionally, both acts require separate toilets and washing facilities for male and female workers and canteen facilities for workplaces with more than 100 workers. However, despite these provisions, enforcement remains a challenge in Bangladesh, necessitating further efforts to ensure full compliance.

Both regulations strictly stipulated the provision of separate facilities for male and female workers. Separate toilets should be provided for every 25 female workers, with an additional one for the next 50 workers. The ratio of toilet allocation will reduce according to the number of female workers. This can cause long waits for workers to use the toilet, which might adversely affect their health.

Employers may not always be required to provide a separate dining room if the canteen can accommodate 30 per cent of the total workforce for meals. However, it is crucial to note that this exception should not be misused to exclude female workers from accessing safe and comfortable workplaces. The number of female workers mentioned in the laws should not be an obstacle to providing them with the necessary separate facilities as mandated by the law. It is also noteworthy that the current EPZ Labour Act does not include restroom provisions that require attention.

13.EU Insights to Creating a Gender-Sensitive Workplace

The European Union (EU) has actively supported gender equality by implementing regulations that emphasise equal treatment for women in the workplace. Among various equality directives, the two primary directives are Directive 2006/54/EC, aimed at promoting equal

opportunities for men and women⁴¹⁶, and the Pregnancy Directive 92/85/EEC, which focuses on health and safety for pregnant or breastfeeding workers. These highlight the EU's keenness to create fair workplace atmospheres by accumulating gender-sensitive facilities, which include childcare services, breastfeeding rooms, separate restrooms, and washing and canteen facilities, which are important for easing women's involvement in the workforce. These amenities are intended to address the specific needs of female workers that may eradicate structural blocks to women's employment, which can increase productivity and retention in the workplace.⁴¹⁷ This section studies the implementation of directives in Poland, Romania, and Hungary and assesses their potential implications for the ready-made garment (RMG) industry in Bangladesh.

1. **Childcare facilities:** For female workers, accessible, affordable and reliable childcare services are linked to increased workforce participation among women. To incorporate this facility, the EU Directive 2019/1158 on work-life balance for parents and carers highlights the importance of employer support for childcare in promoting gender equality⁴¹⁸. In Poland, under the Labour Code, employers are not obliged to provide on-site support for childcare; however, the Family and Guardianship Code promotes the establishment of on-site childcare facilities or the subsidisation of childcare expenses through tax incentives. Additionally, some businesses collaborate with local authorities to offer external daycare options⁴¹⁹. Moreover, under the Labour Code, Hungary has the opportunity to get subsidies for employers to provide childcare facilities. More than 70% of large enterprises reportedly offer on-site facilities for childcare support.⁴²⁰ On the other hand, in Romania, the Labour Code amendment requires that companies that employ more than 50 females should offer childcare support, which can be provided through subsidies or on-site facilities. However, the enforcement of this requirement has been inconsistent, with notable differences in compliance rates between urban and rural regions. On the brighter side of the legislation, over the past few decades, this

⁴¹⁶ Directive 92/85/EEC - pregnant workers - Safety and health at work - EU-OSHA.Europa.eu. [online] Available at: <https://osha.europa.eu/en/legislation/directives/10>.

⁴¹⁷ EU (2022). EU and Bangladesh hold 10th Joint Commission meeting | EEAS. [online] 22 May. Available at: https://www.eeas.europa.eu/eeas/eu-and-bangladesh-hold-10th-joint-commission-meeting_en [Accessed 19 Mar. 2023].

⁴¹⁸ Directive 2019/1158 - work-life balance for parents and carers.Europa.eu.[online] Available at: <https://osha.europa.eu/en/legislation/directive/directive-20191158-work-life-balance-parents-and-carers>.

⁴¹⁹ Mikucka, M. (2008). Variation in Women's Employment Across European Countries: The Impact of Child Care Policy Solutions. *International Journal of Sociology*, 38(1), pp.12–37. <https://doi.org/10.2753/IJS0020-7659380101>

⁴²⁰ OECD (2022). *Reducing the Gender Employment Gap in Hungary*. Paris: OECD Publishing. <https://doi.org/10.1787/fe5bc945-en>.

policy has contributed to a 12% rise in women's participation in the Romanian workforce. However, the issue of consistent enforcement persists, especially among smaller businesses, and it needs to be addressed.⁴²¹

2. **Breastfeeding Area:** The EU Directive 92/85/EEC (Pregnancy Directive) mandates the provision of breastfeeding facilities at the workplace for new mothers to ensure privacy and hygiene. As per Polish law, breastfeeding mothers receive particular under Article 187 of the Labour Code permits mothers to take two paid breaks of 30 minutes each per day for breastfeeding. Under Article 176, employers are mandated to provide hygienic and private rooms or spaces for breastfeeding in workplaces with more than 20 female employees.⁴²² In contrast, the Hungarian Labour Code mandates specific requirements for breastfeeding spaces in workplaces with over 50 employees, which could lead to improved maternal health results.⁴²³ In Romania, while implementation varies, large enterprises and employers in urban centres have established breastfeeding facilities, frequently associated with incentives to reduce corporate taxes.⁴²⁴
3. **Separate Restrooms and Toilet Facilities:** The provision of adequate restroom or toilet facilities in the workplace is essential for women to ensure health protection and workplace equity. The EU legislation, particularly Directive 89/391/EEC on occupational health and safety, emphasises the requirement for separate toilets and washing facilities to maintain cleanliness and dignity for women in the workplace⁴²⁵. To comply with the EU directive, Polish law mandates that employers provide separate restroom facilities for men and women. This ensures that these amenities include proper washing supplies like water, soap and toilet paper. This requirement aims to enhance occupational safety within the workplace. Remarkably, the foundation of occupational health and safety (OHS) in Poland is built on key principles and legal frameworks. The Constitution of the Republic of Poland, adopted in 1997, guarantees the right to safe

⁴²¹ European Institute for Gender Equality. (2022). *Romania*. [online] Available at: https://eige.europa.eu/gender-mainstreaming/toolkits/gear/legislative-policy-backgrounds/romania?language_content_entity=en&utm_source [Accessed 15 Jan. 2024].

⁴²² *LABOUR CODE (full translation)*. Artical 176, 186 [online] Available at: https://www.mpsv.cz/documents/625317/625915/Labour_Code_2012.pdf/ [Accessed 5 Jan. 2024].

⁴²³ European Institute for Gender Equality. (2023). *Hungary*. [online] Available at: https://eige.europa.eu/gender-mainstreaming/countries/hungary?language_content_entity=en&utm_source=chatgpt.com. [Accessed 15 Jan. 2024].

⁴²⁴ European Roma Rights Centre. (2024). Romanian National Council for Combating Discrimination Ineffective (2005). [online] Available at: <https://www.errc.org/press-releases/romanian-national-council-for-combating-discrimination-ineffective>. [Accessed 1 Jan. 2024].

⁴²⁵ Directive 89/391/EEC ‘the introduction of measures to encourage improvements in the safety and health of workers at work’. eur-lex.europa.eu. [online] Available at: <https://eur-lex.europa.eu/eli/dir/1989/391/oj>.

and hygienic working conditions. The Labour Code, enacted in 1974 and updated over the years, outlines the rights and responsibilities of both employers and employees concerning OHS. Additionally, the Act of 13 April 2007 established the National Labour Inspectorate, which is the key authority responsible for enforcing OHS regulations. This agency, known as the Państwowa Inspekcja Pracy (PIP), conducts inspections to ensure compliance with OHS standards, often without prior notice to employers.⁴²⁶ On the other hand, in Romanian Labour Code mandates separate restrooms and hygienic facilities for female workers in industries and manufacturing sectors. In urban cities, manufacturing sectors typically undergo routine inspections by labour authorities to verify compliance. The Labour Code in Romania incorporates these requirements, with non-compliance leading to significant penalties.⁴²⁷ In Hungary, compliance has increased, with labour authorities and private sector partners collaborating to uphold workplace nutrition and cleanliness standards.⁴²⁸

4. **Canteens and Break Facilities:** Canteens and break facilities in the workplace can play a vital role in improving the overall work environment in factories. These facilities can help reduce exhaustion and provide employees, particularly women who juggle work and caregiving responsibilities, with the opportunity to access nutritious meals. Although no explicit EU directives are in place, these facilities are encouraged under broader health standards, which can support an improved work-life balance.

The action plan for gender-sensitive amenities in Bangladesh's ready-made garment (RMG) industry aims to promote inclusivity, enhance women's participation, and comply with international labour standards. Essential facilities for implementation include on-site childcare centres, clean breastfeeding rooms, separate bathrooms and washing areas, as well as subsidised meals and rest areas for employees. For the plan to succeed, it must include several key components. These should consist of creating policies aligned with European Union directives, engaging stakeholders, executing pilot programs within a specified timeframe,

⁴²⁶ Rivermate.com. (2024). *Workplace Health and Safety in Poland* | Rivermate. [online] Available at: <https://www.rivermate.com/guides/poland/health-and-safety> [Accessed 2024]

⁴²⁷ European Roma Rights Centre. (2024). *Romanian National Council for Combating Discrimination Ineffective (2005)*. [online] Available at: <https://www.errc.org/press-releases/romanian-national-council-for-combating-discrimination-ineffective> [Accessed 1 Jan. 2024].

⁴²⁸ European Institute for Gender Equality. (2023). *Hungary*. [online] Available at: https://eige.europa.eu/gender-mainstreaming/countries/hungary?language_content_entity=en&utm_source=chatgpt.com [Accessed 15 Jan. 2024].

building necessary infrastructure, and launching training and awareness initiatives. Additionally, it is crucial to establish a robust monitoring and evaluation system.

To improve compliance, clear laws should be established in aligned with international standards. It is important to work with the Ministry of Labour and Employment to create policies that require gender-sensitive facilities. This approach aims to follow Bangladesh's Labour Law and consider relevant EU directives, like Directive 92/85/EEC and Directive 2019/1158. Remarkably, Bangladesh's laws include rules for gender-segregated facilities, but the implementation of these rules in the RMG industry remains difficult.

Stakeholder engagement is essential to create gender-sensitive facilities. It should include partnerships with government entities, non-governmental organisations (NGOs), and private sector organisations, such as the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), international buyers, and labour unions. It is important to secure funding through corporate social responsibility (CSR) programs initiated by global apparel brands, including H&M, Zara, C&A and many other brands, as well as from donor agencies like the International Labour Organization (ILO).

Initiating pilot projects to gather data that can facilitate scaling and address emerging challenges. The proposed project could involve selecting 10 to 15 factories in Dhaka and Chittagong as pilot sites for the implementation of a comprehensive package of gender-sensitive facilities. The program can be evaluated through surveys on focus groups and key performance indicators (KPIs) such as absence rates, worker retention, and satisfaction levels.

Infrastructure development is another key factor that can benefit from industrial collaboration. By carrying out audits to identify existing infrastructure development needs and directing funds towards renovating and equipping factories with necessary facilities, the government and industry can work together effectively. Implementing training and awareness campaigns for both employers and employees can help address cultural resistance and promote accountability, which is essential for the success of initiatives. Moreover, creating a monitoring framework to track how facilities are used and their effectiveness, along with conducting regular inspections and publishing annual reports on the outcomes of pilot programmes, can strengthen accountability and ensure that the programme meets its objectives.

Having a solid strategy is crucial when facing challenges like funding shortages and implementation delays. One practical approach could be to look for international funding opportunities and consider providing government subsidies to support various initiatives.

Additionally, establishing a matching fund program in collaboration with global brands might attract extra resources.

It could be expected that the alignment of the national acts with ILO standards and EU directives on implementing these gender-sensitive facilities is likely to benefit workers in several significant ways. It can help promote a better work-life balance, improve hygiene and health conditions, and boost overall job satisfaction. In turn, this can lead to enhanced productivity and an increase in worker retention. Moreover, companies that follow these guidelines can strengthen their reputation as ethical employers in the global market and become more attractive to global buyers looking for sustainable sourcing options.

14. Inadequate presence in trade union

The presence of women in trade unions is crucial in advancing gender equality in the workplace. Unions hold a significant responsibility in enhancing working conditions and safeguarding the rights of female workers. By implementing democratic and protective policies, unions can effectively combat employer discrimination against women and improve their overall working environment.⁴²⁹

The formation of labour unions and the practice of collective bargaining are crucial tools for safeguarding workers' rights, particularly within the context of global supply chains. A union within a factory is vital for ensuring that the voices of workers are heard. Over the past decade, the number of unions in the RMG industry has significantly risen. Until 2015, there were 326 trade unions in this sector; 138 of these were registered from 1983 to 2012, while the remaining unions were established between 2013 and 2015 following the Rana Plaza building collapse.⁴³⁰ Between the years 2016 and 2020, the number of trade unions increased significantly, reaching a total of 945 as of 2015. This growth is associated with enhanced collective organisation among workers and changes in legislation regarding union registration. However, these newly established unions account for only a small portion of the more than four million workers in the ready-made garment (RMG) sector.⁴³¹

⁴²⁹ Husain, T., Mustafa Shindaini, A.J. and Akter Nipa, S. (2022). Factors of Gender Imbalance in Labor Union: How Feminizing the Labor Union Would Solve the Gendered Structure of Wage Labor in Bangladesh. *Journal of Faculty of Arts and Social Science. Bangladesh University of Professionals*, [online] 2(1), pp.19–34.

⁴³⁰ Why 'Workers Welfare Association' not enough to enjoy GSP?. (2017). *Textile Today*. [online] 7 May. Available at: <https://textiletoday.com.bd/workers-welfare-association-not-enough-enjoy-gsp> [Accessed 20 Jan. 2021].

⁴³¹ Registered trade unions in the BD RMG sector has increased. (2020). *Textile Today*. [online] 29 Dec. Available at: <https://www.textiletoday.com.bd/registered-trade-union-bd-rmg-sector-increased>. [Accessed 20 Jan. 2021].

14.1 International standard on trade union formation

The Universal Declaration of Human Rights (1948), Article 20, proclaimed that one of the most important human rights is the freedom of association, which allows non-state actors to participate meaningfully in economic and social policy discussions. This right is essential for any country's smooth functioning of labour markets and governance structures.

Freedom of association is a fundamental labour right that is rooted in the ILO Constitution and reaffirmed as such in the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The Convention concerning Freedom of Association and Protection of the Right to Organise (No. 87), established in 1948, acknowledges that the ability of workers and employers to create and join groups of their own choosing is a fundamental aspect of a free and transparent society, Article 2.⁴³² Numerous organisations have historically played a crucial role in the democratic evolution of their respective countries.

Convention 87 empowered the workers' and employers' organisations to create their own constitutions, elect representatives, and formulate programs. It is imperative that government authorities do not infringe upon these rights. Furthermore, these organisations have the liberty to form federations and confederations and establish affiliations with international organisations. The legal system must not hinder the protection of workers' and employers' organisations (Article 3-8).⁴³³

Along with freedom of association rights, the ILO also recognises another important labour right, collective bargaining, which is closely connected to freedom of association. The Right to Organise and Collective Bargaining Convention, 1949 (No. 98) is another fundamental principle. This crucial tool facilitates constructive negotiations between employers, their organisations, and trade unions to establish equitable compensation and working conditions while ensuring equal opportunities for women and men. It also serves as a cornerstone for fostering positive labour relationships. These negotiations typically involve discussions on a range of issues, including wages, work hours, training, occupational health and safety, and fair treatment. The primary objective of these discussions is to reach a collective agreement outlining employment terms and conditions.

⁴³² Convention C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Ilo.org. [online] Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:312232#:~:tex=1..and%20to%20formulate%20their%20programmes. [Accessed 20 Jan. 2025]. Article 2

⁴³³ Ibid Article 3-8

These agreements also encompass all parties' rights and obligations, fostering a peaceful and productive work environment. Enhancing the inclusiveness of these negotiations and agreements can help minimise inequality and extend labour protections.⁴³⁴

The Convention 98, Article 1-5, emphasises the importance of safeguarding workers from discrimination against their union activities, interference with their unions, and the implementation of measures to guarantee the right to organise. It emphasises the necessity of protection against actions that hinder union membership or mistreatment due to union membership or involvement in union activities outside of work hours. The article advocates for the creation of legal frameworks, administrative bodies, and other structures that cater to the specific conditions of each country. Furthermore, it underlines the importance of voluntary negotiations between employers and workers' organisations to regulate employment terms and conditions through collective agreements. It clarifies that national laws or regulations will determine the guarantees provided in the Convention and that ratification by a member country should not affect existing laws, awards, customs, or agreements that already ensure rights to armed forces or police members.⁴³⁵

Further, ILO adopted the Collective Bargaining Convention, 1981(No. 154) and Collective Bargaining Recommendation, 1981(No. 163), which endorse the basic principles of Convention 98. The fundamental principles of Convention 98, which emphasise the promotion of voluntary collective bargaining, are crucial for Member States. However, it can be challenging to achieve this goal. This is where Convention 154 and Recommendation 163 come into play, as they provide practical guidelines on how to exercise the right to bargain collectively effectively. These conventions demonstrate how Member States can successfully encourage voluntary collective bargaining.

The objective of the Convention 154 measures is to ensure that all employers and workers can access collective bargaining in all areas covered by the Convention. They also seek to foster agreement on procedural rules and facilitate efficient collective bargaining through labour dispute settlement bodies and procedures. Ultimately, the aim is to promote consensus among all parties involved. National laws or practices may determine the extent to which collective

⁴³⁴ Convention C098 - Right to Organize and Collective Bargaining Convention, 1949 (No. 98). Ilo.org. [online] Available at:

https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312243

⁴³⁵ Convention C098 - Right to Organize and Collective Bargaining Convention, 1949 (No. 98). Articles 1-6

bargaining includes negotiations with workers' representatives, and measures should be taken to prevent these representatives from undermining the position of workers' organisations.⁴³⁶

Additionally, Recommendation 163 stated how to enhance collective bargaining. It could be done by establishing independent organisations for both employers and workers. It is important to establish clear and objective criteria for eligibility and ensure access to information for negotiations and dispute resolution procedures. Governments have a critical role to play in supporting collective bargaining, including creating supportive institutions and legislative frameworks, as well as initiatives such as maintaining databases, providing training, and offering dispute resolution services.⁴³⁷

14.2 Trade Union and other Committees: National Legislation:

Tread Union

According to the BLA 2006, chapter 13, section 176, all workers have the right to form Trade unions (TU). Employers also have the same right to form unions, which can help regulate relations between employers and workers or among workers themselves. Trade unions can further create federations and affiliate with international organisations. Both trade unions and employers' associations are free to develop their own constitutions, elect representatives, and organise activities. Additionally, if an establishment has at least 20% women, the union executive committee must have at least 10% women members, section 176(e)⁴³⁸. Finally, as stated in section 179 (2), registering a trade union requires a minimum membership of 30% of the total number of workers employed in the establishment in which it is formed.⁴³⁹ Rule 169(1) specifies the number of executive committee members based on the proportion of workers, with consideration given to women's participation as outlined in Rule 169(2).⁴⁴⁰

It should be noted that, under the EPZ Labor Act 2019, workers in EPZ are not allowed to form trade unions. Instead, RMG workers in EPZ can form welfare associations. Section 94 of the Act states that workers employed in any enterprise in any Zone shall have the right to form and join the Workers' Welfare Association (WWA) subject to its constitution.

⁴³⁶Convention C154 - Collective Bargaining Convention, 1981 (No. 154). Ilo.org. [online] Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312299 Article 1-4

⁴³⁷ Recommendation R163 - Collective Bargaining Recommendation, 1981 (No. 163).Ilo.org. [online] Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R163. Para 1-8

⁴³⁸ Bangladesh Labour Act (BLA) 2006, section 176(e)

⁴³⁹ Ibid, section 179(2).

⁴⁴⁰ Bangladesh Labour Rule (BLA)2015, Rule 169(1-2)

However, a minimum of 20% of the permanent workers of the industry are required to apply to form a Workers' Welfare Association on behalf of all workers in a prescribed form with signatures or thumb impressions to the Executive Director (Labour and Industrial Relations). Additionally, Section 94(5) ensures that permanent female workers must fill a minimum of 30% of the Executive Council's posts⁴⁴¹. EPZ Labour Rule 2022, Rule 184(2) states that women are eligible for Executive Council membership under section 94(4), but this may be excluded if no women are employed in an establishment.⁴⁴²

Safety Committee

In addition to trade unions, the BLA 2006 also provides for establishing a safety committee (SC). According to section 90A, every factory employing 50 or more workers must have a safety committee. The primary objective of this committee is to promote and ensure safety within the factory premises.⁴⁴³ The BLR 2015 Rule 81(1, 2, and 13) supplements Section 90A, and entities with a workforce of 50 or more individuals are mandated to establish a Safety Committee within a specified period. The Safety Committee should consist of no less than 6 members and no more than 12 members, with equitable representation from both the Owner Party and the Worker Party. In the case of female employees, the Workers' Representatives must include at least one-third of the representation from the female workforce.⁴⁴⁴

Collective Bargaining Agent

Collective bargaining was ensured by the Bangladesh Labour (Amendment) Act of 2013. Section 202 outlines the procedures for establishing a trade union as a collective bargaining agent for an establishment. In cases where there is only one trade union, it is automatically considered the Collective Bargaining Agent (CBA). However, if multiple trade unions exist, they must nominate an election commissioner to elect a CBA. The Director of Labour will then conduct a secret ballot within 120 days of the application to determine the CBA. Failure of a trade union to inform the Director of Labour within 15 days will result in an assumption that they are not contesting in the secret ballot. Suppose no trade union informs the Director of Labour within the specified time. In that case, the trade union with not less than one-third of the total number of workers employed in the establishment will be declared the CBA.⁴⁴⁵

⁴⁴¹ Bangladesh EPZ Labour Act 2019(EPZ) section 94(2)(4).

⁴⁴² Bangladesh EPZ Labour Rule 2022, Rule 184(2)

⁴⁴³ Bangladesh Labour Act (BLA) 2006, section 90A

⁴⁴⁴ Bangladesh Labour Rule 2015(BLR) section 81(1 2 and 13),

⁴⁴⁵ Bangladesh Labour Act (BLA) 2006, Section 202(1-5)

The Collective Bargaining Agent (CAB), as per section 202(24), will be responsible for bargaining with employers on behalf of workers regarding joblessness, work conditions, and the work environment. They can represent all or any workers in proceedings, give notice of strikes, nominate workers to welfare institutions and provident funds, and conduct cases on behalf of individual workers or groups. Employers are required to provide an office space for the elected agent within their establishment, following the rules. This provision applies to all establishments.⁴⁴⁶ The BLR 2015, Rule 177-182, stated more details of the CAB selection processes.⁴⁴⁷

For EPZ workers, the Collective Bargaining Agent (CBA) is a representative elected by a registered Workers' Welfare Association within a particular industry. According to the EPZ Labour Act 2019, section 119(1-2), they hold the authority to negotiate with employers on various employment terms and conditions, including wages and working hours. The CBA in EPZ is also empowered to undertake collective bargaining, represent workers in proceedings, and declare strikes in accordance with the Act. In an enterprise where a Workers' Welfare Association is registered, minimum starting wages at the entry level are determined by law or other legal orders. However, other wages, such as increments, promotions, or enhanced benefits, are subject to negotiation between the Workers' Welfare Association and the employer. The agent is responsible for ensuring fair and effective collective bargaining practices in section 119(3-4). The EPZ Labour Rule 2022, Rules 195 and 196 explain the CBA selection and election process.⁴⁴⁸

Participation committee

Employers with at least 50 workers in their establishment must set up a participation committee (PC) under section 205 of the BLA 2006. This committee should include representatives from both the employer and the workers, and the number of worker representatives should be equal to the employer representatives. If there is no trade union in the establishment, the worker representatives on the participation committee are chosen among the workers. In such cases, the worker representatives can act on behalf of workers' interests until a trade union is established. Further, Rule 183(2 and 3) BLR 2015 clarifies that the committee shall consist of no less than 6 and no more than 30 members in total. Rule 184(2) enlightens that it is important to guarantee that worker representatives nominated by trade union representatives and

⁴⁴⁶ Ibid Section 202(24)

⁴⁴⁷ Bangladesh Labour Rule (2015), Rules 177-182

⁴⁴⁸ Bangladesh EPZ Labour Rule 2022, Rules 195 and 196.

collective bargaining agents come from various classes, branches, or departments of the organisation. Additionally, if there are female workers in any of the classes, branches, or divisions of the organisation, priority should be given to nominating women workers to the participating committee⁴⁴⁹.

The participation committee has numerous key responsibilities, including developing trust and collaboration between employers and employees, enforcing labour regulations, enhancing workplace safety and conditions, providing vocational training and welfare services, and improving productivity and product quality. These functions are carried out by local unit participation committees, which are overseen by the principal committee, section 206.

The EPZ workers also have the right to participate in the participatory committee. According to the EPZ Labour Act 2019, section 122, the participatory committee can be established in enterprises that do not have a Workers' Welfare Association or if the association has been dissolved. The committee is composed of equal representatives from both employers and workers. The total number of representatives should range between 6 to 16 members. The committee's term is limited to 2 years. Representatives of workers in the participatory committee are either selected or nominated by the enterprise's employees. Employers are not permitted to transfer these representatives without their approval during the committee's term.⁴⁵⁰ The Participatory committees have various functions, including encouraging trust and cooperation between employers and workers, implementing the Act, improving working conditions and safety, providing vocational training and welfare services, and increasing productivity and product quality as per section 123⁴⁵¹.

The EPZ participatory committee must consist of at least six members and a maximum of sixteen. It should comprise representatives of workers selected from the respective factories. Suppose there are female workers in any class, branch, or division of the organisation. In that case, priority should be given to nominating women workers for the participatory committee as per Rules 220(2) and 222(1) of EPZ Labour Rule 2022.⁴⁵²

14.3 Workers Organisations in the RMG Industry

The worker organisations in any factory or establishment are tremendously important as they reflect the workers' voices and protect their rights. Table 10 below presents an analysis of the

⁴⁴⁹ Ibid, Rule 183 (2 and 3), 184(2)

⁴⁵⁰ Bangladesh EPZ Labour Act 2019 section 122(1-5)

⁴⁵¹ Ibid. Section 123.

⁴⁵² Bangladesh EPZ Labour Rule 2022. Rule 220 and 222.

worker organisations found in factories based on the Karmojibi Nari survey conducted from 2018 to 2019, the ILO Report 2017, and a personal survey. The data aims to provide comprehensive insights into the worker organisations present in the factories for the interviewed workers.

Table 10
Workplace Organisations

Karmajibi Nari	December 2018c ⁴⁵³	March 2019 ⁴⁵⁴	April 2019 ⁴⁵⁵	ILO 2019 ⁴⁵⁶	personal ⁴⁵⁷ survey
Organisations availability	76.1%	52.2%	72.2%	89%	90%yes
Participation Committee (PC)	Available	74.1% yes	60.98%yes	60% yes	80% yes
Trade union (TU)	Least available	18%yes	4.78% yes	2.7% yes	1% yes
Safety Committee (SC)	10.1% no	25.7% no	7.1%no	60%yes	100%yes

Source: made by author

Table 10 indicates that most of the surveyed factories have established participation and safety committees. However, according to reports from KN in 2018, only one in ten women is represented in these committees. Additionally, around 19.8% of women face negative consequences if they speak out about workplace issues and 35.3% face adverse outcomes.

⁴⁵³ Kormojibi Nari (Factsheet 2018) “Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh” [available at <https://www.karmojibinari.org/report/>]

⁴⁵⁴ Kormojibi Nari (Factsheet March 2019) “Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh” [available at <https://www.karmojibinari.org/report/>]

⁴⁵⁵ Kormojibi Nari (Factsheet April 2019) “Monitoring work and working condition of women employed in ready-made garment industries of Bangladesh” [available at <https://www.karmojibinari.org/report/>]

⁴⁵⁶ ILO (2019). Improving Working Conditions in the Ready-Made Garment Sector: Bangladesh Baseline Study (January – May 2017). [Available at: https://www.ilo.org/dhaka/Whatwedo/Publications/WCMS_735614/lang-en/index.htm. Accessed 11 December 2021]

⁴⁵⁷ Information collection by a personal interview with the female workers

Shockingly, the 2019 KN report indicates that 76.21% of women are not members of any committees.⁴⁵⁸

The ILO 2019 report also indicates an inadequate presence of female workers in the participation and safety committee, 26.6% and 12 %, respectively.⁴⁵⁹

According to a survey conducted by Saha in 2023, out of the 200 participants, 19.3% of female workers reported the presence of a trade union in their workplace. Of these, only 7% were members. 17.3% of women workers reported direct restrictions, 42.6% reported indirect restrictions, and 39.5% reported no restrictions. Further, 17% of women workers faced direct restrictions, 43% reported indirect restrictions, and 40% reported no restrictions for joining trade unions.⁴⁶⁰

These findings suggest that improving working conditions and ensuring that female workers have the freedom to join trade unions without obstacles are important. Addressing these issues will create a more inclusive and supportive workplace environment for all employees.

14.4 Compliance with ILO standard and Enforcement

Freedom of Association (FoA) is a fundamental labour right that plays a crucial role in ensuring a fair and just work environment. Upholding this right is crucial, as any violation can directly impact an individual's work life. Therefore, it is essential to integrate the ILO standards of FoA Convention 87 and Convention 98 Collective Bargaining into national legislation to ensure that every worker can exercise their right to FoA without any hindrance.

Bangladesh ratified Conventions 87 and 98 on 22 June 1972. In compliance with Convention 87, the BLA 2006 contains a provision allowing workers to form trade unions, and they have the freedom to join any union of their choice. Workers are permitted to join any trade union or federation, despite the notable requirement of 20 percent membership to establish a union under the BLA. This requirement indirectly obstructs the formation of unions and infringes upon the RMG workers' right to freedom of association (FoA).

⁴⁵⁸ Karmojibi Nari,(Factsheet 2018,and 2019 March and April). “Monitoring work and working conditions of women employed in ready-made garment industries of Bangladesh”. <https://www.karmojibinari.org/report/>

⁴⁵⁹ ILO (2020). Improving Working Conditions in the Ready-made Garment Sector Programme. [online] International Labour Organization. Dhaka. Bangladesh. Available at: <https://www.ilo.org/publications/improving-working-conditions-ready-made-garment-sector-programme>. [Accessed 2020].

⁴⁶⁰Saha, H., 2023. Rights of the Women Worker of Readymade Garment Industry in Bangladesh: Gaps Between Law and Practice. *Journal of Law and Society*, 6(1), pp.102-111.<https://doi.org/10.11648/j.jls.20230601.24>

Although the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) observation in 2022. The committee stated that the 2018 BLA amendment reduced trade union membership from 30% to 20% of total workers, resulting in increased registration applications. However, the Committee argues that the 20% threshold is still too high, particularly for large enterprises, and recommends repealing sections allowing union cancellation and limiting union numbers.⁴⁶¹

EPZ workers are not allowed to form trade unions, as per the EPZ Labour Act 2019. Instead, they can only form a Workers' Welfare Association (WWA), which has limited power compared to trade unions outside the EPZ. Furthermore, the law prohibits EPZ workers from joining any other organisation outside the zone. This goes against the objective of Convention 87 and violates the rights of EPZ workers to organise.

Although the acts provide the right to organise, in practice, RMG workers face adverse consequences for unionisation. As per the Fair Wear Foundation (FWF) country report 2018, in December 2016, workers in Ashulia protested for a higher minimum wage, which resulted in job losses and the arrests of union leaders.⁴⁶² The following year, in 2019, the conflict between workers and management continued, leading to further terminations of jobs.⁴⁶³

The CEACR Committee observed in 2020 a violation of the right to organise in the RMG industry from the observations made by the International Trade Union Confederation (ITUC) on September 1, 2019, and September 15, 2020. The ITUC has raised concerns about certain matters that are addressed in this comment, as well as the alleged anti-union dismissal of 3,000 garment workers in June 2020, which they claim was an effort to undermine union activities. These incidents took place in three garment factories situated in Gazipur and Dhaka.⁴⁶⁴ This type of unfair dismissal threats not to be a part of a union and arbitrary arrest by the police

⁴⁶¹ ILO (2023b). Observation (CEACR) - adopted in 2022. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) Bangladesh. [online] Ilo.org. Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID [Accessed 2023].

⁴⁶² Fair Wear (2018). *Bangladesh country study 2018*. [online] Available at: <https://api.fairwear.org/wp-content/uploads/2019/03/Fair-Wear-country-study-Bangladesh-2018-new.pdf> [Accessed Jun. 2020].

⁴⁶³ Ethical Treading Initiative (2021). *Country Information & Practical Advice on Freedom of Association & Collective Bargaining: BANGLADESH*. [online] SocialDialogue.org. Available at: <https://www.socialdialogue.org/2021/07/22/country-information-practical-advice-on-freedom-of-association-collective-bargaining-bangladesh/> [Accessed 20 Jan. 2025].

⁴⁶⁴ ILO (2021). *Observation (CEACR) - adopted 2020. Right to Organise and Collective Bargaining Convention, 1949 (No. 98) Bangladesh* [online] Ilo.org. Available at: https://normlex.ilo.org/dyn/nrmlx_fr/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:4060425 [Accessed 20 Jan. 2022].

deter RMG workers from forming trade unions. Currently, the number of trade unions in Bangladesh in RMG was 1140 in 2022, which was 138 in 2013.⁴⁶⁵

Significantly, it can be observed that both acts ensured the presence of female workers in all the worker's organisations, which is a positive step towards gender equality. In the practical scenario in the RMG industry presence of female workers is adequate. Previous studies have revealed that women workers are reluctant to join trade unions and committees, primarily due to apprehensions of potential backlash and time commitments. Social and safety concerns, coupled with the burden of care on women workers, lack of education and legal knowledge, hinder their active participation. The lack of representation can be attributed to management's non-compliance and their lack of initiative in promoting women's participation⁴⁶⁶. Unions often have past gender discrimination and contemporary insensitivity towards women's issues. Women face discrimination in membership and policy control, lack of fair leadership elections, and are mediated exclusively by male counterparts, hindering their engagement in union activities.⁴⁶⁷ Additionally, women are often barred from running for leadership positions due to a lack of funds or control. Under the act, the 10% presence of women in the union executive committee is insufficient to represent a large number of female workers.⁴⁶⁸

In the context of collective bargaining agreements (CBA), it is noteworthy to mention that Bangladesh has not yet ratified Convention 154. However, it is essential to note that CBA has been incorporated into both labour acts in the country. Regrettably, recent FWF audits have revealed that no CBA was observed in the Bangladesh RMG industry during the audit process. It was observed that none of the factories audited had a current CBA in place. Intriguingly, over the last decade, none of the audited factories had a CBA in place.⁴⁶⁹

⁴⁶⁵ Saltmarsh, S.-J. (2019b). *Key lessons on collective bargaining in Bangladesh's apparel sector*. [online] *Laudes Foundation*. Available at: <https://www.laudesfoundation.org/media/pasnydor/key-lessons-on-collective-bargaining-in-bangladeshs-apparel-sector.pdf>. [Accessed 2021].

⁴⁶⁶ ILO (2019). *a Improving Working Conditions in the RMG Sector Phase-II: Baseline Study Report (2017)*. [online] Dhaka Bangladesh: International Labour Organization(ILO). Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_735614.pdf [Accessed Jun. 2020].

⁴⁶⁷ Husain, T., Mustafa Shindaini, A.J. and Akter Nipa, S. (2022). Factors of Gender Imbalance in Labor Union: How Feminizing the Labor Union Would Solve the Gendered Structure of Wage Labor in Bangladesh. *Journal of Faculty of Arts and Social Science. Bangladesh University of Professionals*, [online] 2(1), pp.19–34. Available at <https://www.researchgate.net/publication/370962691> [Accessed 20 Jan. 2025].

⁴⁶⁸ Bangladesh country study. (2018). <https://api.fairwear.org/wp-content/uploads/2019/03/Fair-Wear-country-study-Bangladesh-2018-new.pdf>. Fair Wear.

⁴⁶⁹ FairWear Foundation (2020). Freedom of association and the right to collective bargaining a guide for brands. [online] Available at: <https://api.fairwear.org/wp-content/uploads/2021/04/Fairwear-Freedom-of-Association-Brand-Guide-2021.pdf> [Accessed 2022].

It is paramount for both laborers and proprietors to grasp the import of CBAs in the Ready-Made Garment (RMG) sector of Bangladesh. CBAs are a pivotal instrument that empowers workers by enabling them to establish unions at the factory level and negotiate agreements to ameliorate concerns such as leave and working conditions. Typically, the negotiation process entails registering grievances, endeavouring to resolve them through meetings, and resorting to arbitration if necessary. CBAs furnish workers with the ability to request more than mere labour law and address their precise needs in the RMG sector, thereby effectuating a mechanism for resolving quandaries.

15. Conclusion and Recommendations

Establishing a robust anti-discrimination policy within Bangladesh's labour laws presents an opportunity for meaningful progress. A comprehensive approach can effectively address potential legal modifications and the inherent challenges faced in this area. The Constitution of Bangladesh enshrines the principles of equality and non-discrimination in Article 28, which serves as a strong foundation for further developments.

While the current labour laws, including the Bangladesh Labor Act of 2006, prohibit discrimination based on sex in relation to wages, specifically in Section 345(BLA 2006) and the EPZ Labor Act of 2019, there is a valuable opportunity to expand protections. The existing framework currently lacks comprehensive measures against discrimination based on critical grounds such as religion, disability, and sexual orientation. Moreover, there is a need for clearer provisions addressing workplace gender discrimination; recommendations are as follows.

- A. **Expanding protected characteristics:** The law should explicitly prohibit discrimination on all grounds, aligning with international human rights standards (International Labour Organization, Discrimination (Employment and Occupation) Convention, 1958 (No. 111).
- B. **Clear definition:** To achieve gender equity in the workplace, an amendment to the Acts should include explicit definitions of gender-based discrimination (GBD), establish equal opportunity provisions, and create a legal framework that ensures fairness in recruitment, promotions, and workplace conditions. Comparative legal studies indicate that countries like India, which implemented the Equal Remuneration Act in 1976,

experienced a significant reduction in workplace gender disparities by providing clear protections for victims. While the BLA mandates equal pay, research findings suggest that women often earn less than men due to their concentration in low-wage, low-skill positions. It is advised that government labour inspections focus on wage audits in RMG factories to ensure compliance with these standards. Additionally, the establishment of wage transparency, where factories publicly display wage scales, may help deter discriminatory practices.⁴⁷⁰

C. Monitoring organisations: Creating a strong, independent labour monitoring organisation necessitates a solid structure that focuses on transparency and accountability. This entity must possess the necessary authority to conduct regular and unannounced inspections, investigate complaints with the power to summon witnesses and access documents, and impose sanctions such as fines and remediation orders for labour law violations. Furthermore, complaint redressal mechanisms such as the establishment of ombudsperson offices or dedicated equality commissions would ensure that victims of GBD have access to an impartial and efficient adjudicatory system. Evidence from jurisdictions with similar systems, such as South Africa's Commission for Gender Equality, demonstrates the efficacy of such measures in addressing workplace grievances and fostering an inclusive labour environment⁴⁷¹. The monitoring body must maintain financial autonomy and protection from undue influence and be subject to oversight mechanisms like parliamentary scrutiny to ensure its independence, accountability, and effective enforcement of labour standards. Additionally, it should encourage cooperation between employers and employees to ensure that everyone's perspectives are acknowledged and valued. By emphasising these aspects, the monitoring organisation can foster a culture of fairness and adherence to labour regulations, which will improve working conditions and safeguard workers' rights.

D. Promoting awareness and training: Employers, workers, and relevant stakeholders have the opportunity to become well-informed about their rights and responsibilities under the anti-discrimination policy. Overcoming barriers is not just a challenge; it

⁴⁷⁰ Bidisha, S.H., Faruk, A. and Mahmood, T. (2022). How Are Women Faring in the Bangladeshi Labour Market? Evidence from Labour Force Survey Data. *South Asia Economic Journal*, 23(2), p.139156142211085. doi.org/10.1177/13915614221108564.

⁴⁷¹ Women, Business and the Law Report. (2021). [online] *UNHCR Operational Data Portal (ODP)*. Available at: <https://data.unhcr.org/en/documents/details/85167> [Accessed 8 Jan. 2022].

requires united efforts among government agencies, private sector organisations, trade unions, and civil society groups. Advocacy campaigns that highlight the financial and social benefits of gender-diverse leadership can inspire widespread support for transformative reforms.

However, merely enacting legal reforms is insufficient to dismantle the deeply entrenched patriarchal systems that support gender-based discrimination (GBD). Cultural stigmas, predominantly male leadership structures, and a lack of awareness regarding the economic advantages of gender equity pose significant challenges to reform. Enhancing women's leadership and occupancy in managerial, supervisory and leadership roles is essential.⁴⁷²

1. **Strengthening Education and skilled development scope:** Investing in high-quality education and vocational training programs is crucial for equipping women with the necessary skills and knowledge for managerial roles. Since 2016, the GEAR program has trained over 600 female workers in technical and managerial skills, with two-thirds of participants achieving supervisory positions. This initiative, in collaboration with global apparel companies such as H&M, M&S, Levi's, Ralph Lauren, and VF Corporation, has resulted in annual cost savings of \$5,000 per production line and \$100,000 for a factory with 20 lines. Skilled professionals earn, on average, 40% higher salaries and have greater opportunities for advancement in management⁴⁷³. The training should focus on leadership, management, decision-making, and essential soft skills such as communication, negotiation, and problem-solving.
2. **Advocacy for legal and policy reform:** Implementing gender-sensitive policies, including mandatory quotas for female representation in leadership roles, can promote institutional equity. Research indicates that quotas when paired with mentorship and leadership training programs, can enhance women's managerial skills and confidence.

⁴⁷² Study on the role of supervisors in RMG sector of Bangladesh Insights, challenges and strategies for effective women leadership in garment factories. (2024). [online] Deutsche Gesellschaft für. Available at: <https://www.giz.de/de/downloads/giz2024-en-study-on-the-role-of-supervisors-in-RMG-sector-of-bangladesh.pdf>.

⁴⁷³ Arif Uz Zaman (2023). Women supervisors in garment factories are more 'production-friendly': Survey. *Textile News, Apparel News, RMG News, Fashion Trends*. [online] 18 Jun. Available at: <https://www.textiletoday.com.bd/women-supervisors-in-garment-factories-are-more-production-friendly-survey> [Accessed 9 Jan. 2023].

3. **Establishing robust mentorship and sponsorship programs:** Structured mentorship and sponsorship programs can offer women guidance, support, and access to networks that may facilitate career progression. Pairing women with experienced senior managers can provide insights, career advice and opportunities for professional development.
4. **Fostering a Culture of Inclusivity:** Creating a workplace culture that emphasises diversity and inclusion is crucial for promoting gender equality in leadership and managerial roles. This involves providing gender-sensitivity training for staff, establishing clear anti-discrimination policies at the workplace, and ensuring that grievance redressal mechanisms are accessible and effective in addressing cases of gender-based discrimination and harassment. Research from global initiatives shows that fostering inclusive work environments enhances organisational performance and improves employee retention.⁴⁷⁴
5. **Promoting Flexible Work Arrangements:** Recognizing the unique challenges faced by women in balancing work and family responsibilities implementing flexible work arrangements such as part-time work, remote work options, and extended maternity leave can significantly improve women's participation and advancement in managerial positions.⁴⁷⁵

By amending the labour laws to define and outlaw all types of discrimination clearly, Bangladesh has the potential to cultivate a working environment that respects the human rights of every worker. Such an advanced thinking strategy would not only bolster legal safeguards but also promote a more just society.⁴⁷⁶ Further, Joint initiatives among government bodies, international organisations, and stakeholders in the ready-made garment (RMG) sector can offer the necessary structural and cultural support to improve women's representation in leadership positions, thereby advancing broader objectives of gender equality and sustainable development.⁴⁷⁷

⁴⁷⁴ Mustafa, S. and Gomes, K. (2022). Level of Women Empowerment in Ready Made Garments Industry of Bangladesh: Reasons and Consequences. *Global Journal of Management and Business Research*, pp.19–26. doi: <https://doi.org/10.34257/gimbrbvol22is2>

⁴⁷⁵ The Financial Express (2024). The Financial Express. *The Financial Express*. [online] 28 Dec. Available at: <https://today.thefinancialexpress.com.bd/views-opinion/gender-inequality-in-workforce-can-bangladesh-achieve-sdg-5-1735311391> [Accessed 2 Jan. 2025].

⁴⁷⁶ Rahman, M.S., 2023. The Impact of Public Policy on Gender Equality and Women's Rights in Bangladesh. Available at SSRN: <https://ssrn.com/abstract=4489731> or <http://dx.doi.org/10.2139/ssrn.4489731>

⁴⁷⁷ Ward, J., Lee, B., Baptist, S. and Jackson, H. (2024). *Gender equality and economic growth*. OECD social employment and migration working papers <https://doi.org/10.1787/fb0a0a93-en>

CHAPTER 4

Law to Combat Harassment in Bangladesh RMG Industry

1 Introduction

The garment sector is a rapidly expanding global industry, primarily driven by major retailers and marketers, and it employed an estimated 60 to 75 million individuals worldwide in 2014. Notably, the garment industry serves as a significant source of formal employment for women, with at least three-quarters of garment workers across the globe being female⁴⁷⁸. Regrettably, women in this industry frequently encounter harassment, including verbal and physical violence. In the garment industry, a substantial number of women hold lower-paid, lower-power positions, rendering them particularly susceptible to various forms of harassment.⁴⁷⁹ It is paramount to acknowledge that both men and women experience harassment in Ready-Made Garment (RMG) factories; however, women are disproportionately impacted by sexual harassment due to their gender.

The prevalence of harassment in RMG factories has harmful effects on the personal and professional lives of female workers. Therefore, it is imperative to identify the underlying causes of harassment in these factories, as well as the specific types and forms of harassment experienced by female workers. Furthermore, it is crucial to scrutinise the existing labour laws in Bangladesh aimed at safeguarding female workers from harassment in factories. Despite the absence of specific legislation addressing workplace harassment, Bangladesh is a signatory member of the International Labour Organization (ILO). It presents an opportunity to evaluate the implementation and deficiencies in the law and to contemplate the possibility of ratifying ILO Convention No. 190 on harassment in the workplace at the national level. The ratification of ILO Convention No. 190 would signify Bangladesh's dedication to addressing and preventing harassment in the workplace, thereby affording greater protection for female workers in the RMG sector. This action would not only align Bangladesh with international labour standards but also demonstrate a proactive approach to fostering a safe and respectful work environment for all employees.

⁴⁷⁸ Morris, J. and Pillinger, Jane (2018). Violence and harassment against women and men in the global garment supply chain. ILO CONFERENCE 2018. [online] www.fairwear.org/. Fair Wear Foundation. Available at: <https://api.fairwear.org/wp-content/uploads/2018/03/FWF-ILO-submission-final.pdf> [Accessed 2022].

⁴⁷⁹ Fair Wear Foundation (2018b). Breaking the silence: the FWF violence and harassment prevention programme |Safeguarding Resource and Support Hub. [online] [Safeguardingsupporthub.org](https://mena.safeguardingsupporthub.org/). Available at: <https://mena.safeguardingsupporthub.org/documents/breaking-silence-fwf-violence-and-harassment-prevention-programme> [Accessed 2020].

The chapter will examine the specific laws and regulations aimed at addressing and preventing harassment within the RMG industry in Bangladesh. It will also examine the legal framework, enforcement mechanisms, and the impact of these laws on the industry and its workforce. This chapter is likely to provide valuable information and analysis regarding the efforts to create a safer and more equitable working environment within the RMG sector in Bangladesh.

2. Root Causes of Harassment in RMG Factories

Following China, Bangladesh has been the world's second-largest exporter of ready garments since its journey in the 1970s. The Bangladesh RMG sector has opened doors for many women in formal employment and changed their socio-economic conditions.⁴⁸⁰ However, along with women's empowerment, the RMG industries exposed women workers to workplace harassment. In contrast, harassment at home and on the street is very significant for women in the male-dominated society in Bangladesh.⁴⁸¹ Harassment in the workplace, specifically sexual harassment against women, is a global issue. In Bangladesh RMG industries, verbal, physical and sexual harassment are more significant problems than in other industries. Most of the workforce in the sector is women, and various reasons subject them to sexual harassment. Women in RMG are typically employed in a restricted variety of jobs characterised by significant job instability, low pay, terrible working conditions, low rank, and minimal negotiating power. These characteristics enhance the jeopardy of workers being subjected to harassment.⁴⁸²

Moreover, female workers originate from low-income rural families and are underprivileged⁴⁸³. RMG industries exploited them as a cheap source of labour⁴⁸⁴. This relatively young age is partly to blame for harassment by co-workers, the police, and neighbourhood gangs outside the factory.⁴⁸⁵ A large number of women workers under a few male supervisors and managers, a high production target, and night shift work exposed the

⁴⁸⁰ Mahmud, S. and Kabeer, N. (2003). Compliance Versus Accountability: Struggles for Dignity and Daily Bread in the Bangladesh Garment Industry. *Bangladesh Development Studies*, 29(3-4), pp.21–46.

⁴⁸¹ Osmani, N. and Hossen, B. (2018). Empowering Women in Bangladesh: A Study on the Problems of Working Women in Garments Industries. *European Journal of Social Sciences*, 57(3), pp.277–289.

⁴⁸² Siddiqi, D. (2003). *The Sexual Harassment of Industrial Workers: Strategies for Intervention in the Workplace and Beyond*. [online] Centre for Policy Dialogue. Available at: https://www.cpd.org.bd/pub_attach/unfpa26.pdf [Accessed 10 Jun. 2024].

⁴⁸³ Mustafa, A., M. Saif Islam, Islam, S. and Khatun, M. (2016). Impact of RMG Sector on Livelihood Change of Women Employees of Bangladesh. *Social and economic geography*, 2(1), pp.1–10. <https://doi.org/10.12691/seg-2-1-1>.

⁴⁸⁴ Halim, S. and Kabir, A.H. 2005. "Globalization, gender, and labour market: Some evidence from RMG sector". *Social Science Review*, 22(1), pp.29-44.

⁴⁸⁵ Ali, R.N., Begum, M.M., Salehim, K.S. and Farid, K.S., 2008. Livelihood pattern of rural women garment workers at Dhaka city. *Journal of the Bangladesh Agricultural University*, 6(452-2016-35506).

female workers to sexual harassment by supervisors and managers at the factories⁴⁸⁶. The level of education and lack of knowledge about their labour rights and laws are also significant causes of harassment female RMG workers face.

3 Harassment at RMG factories

Harassment at RMG factories has three different forms: verbal, physical and sexual abuse.⁴⁸⁷ For both men and women, verbal and physical harassment are common in the industry. As per the ILO report, almost 61.7 per cent of workers face harassment at the RMG factories in Bangladesh.⁴⁸⁸ Among 4 million female workers, 80 per cent are subject to verbal and physical abuse.⁴⁸⁹

3.1 Verbal Harassment

As it is a common type of harassment, directed by shouting the use of local slang language, specifically at women workers, the use of slang is subject to gender. Suggestions to become a prostitute or calling them prostitutes are very common in the industries.⁴⁹⁰ After analysing different survey reports, Table 11 illustrates the scenario of verbal abuse.

Table 11 Verbal abuse

Types	FWF 2013 ⁴⁹¹	ILO 2020 ⁴⁹²	Kormojibi Nari 2019 ⁴⁹³	Kormojibi Nari 2021 ⁴⁹⁴

⁴⁸⁶ Centre for Policy Dialogue (CPD), report (2004), “Workplace Environment for Women: Issues of Harassment and Need for Interventions” https://www.cpd.org.bd/pub_attach/DR-65.pdf

⁴⁸⁷ ILO (2019). Improving Working Conditions in the RMG Sector Phase-II: Baseline Study Report (2017).[Online], Dhaka Bangladesh: International Labour Organization (ILO). Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_735614.pdf [Accessed Jun. 2020].

⁴⁸⁸ Matsuura, A. (2020). Understanding the Gender Composition and Experience of Ready-Made Garment (RMG) Workers in Bangladesh. [Online], https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_754669.pdf [Accessed 2021].

⁴⁸⁹ Fair Wear Foundation (2013). STANDING FIRM AGAINST FACTORY FLOOR HARASSMENT preventing violence against women garment workers in Bangladesh and India a project of Fair Wear Foundation (The Netherlands). SAVE. Cividep (India) AMRF Society..Awaj Foundation (Bangladesh). [online] *Fair Ware*. Available at: <https://api.fairwear.org/wp-content/uploads/2016/06/StandingFirmReportFWF2013.pdf> [Accessed 2022].

⁴⁹⁰ Ibid page 9.

⁴⁹¹ Ibid, page 10

⁴⁹² Matsuura, A. (2020). Understanding the Gender Composition and Experience of Ready-Made Garment (RMG) Workers in Bangladesh.

⁴⁹³ Hossain, J. and Ahmed, M. (2019). Work and Working Condition of Women Employed in Ready-Made Garment Industry of Bangladesh. [online] Karmojibi Nari. Available at: https://www.karmojibinari.org/wp-content/uploads/2021/08/Work-and-Working-Condition-of-Women-Employed-in-Ready_-Revised.pdf [Accessed 2020].

⁴⁹⁴ Hossain, J., Ahmed, M. and Akhter, A. (2021). Watch Report on Rights Implementation Status of Women Workers in Bangladesh’s Ready-Made Garment Industries. [online] *Karmojibi Nari* | কর্মজীবী নারী. Available at:

Shouting, threatening, slang	80%	62.8%	72%	93%
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Source: made by author

3.2 Physical Harassment

It consists of acts like biting, shaping, piling hair, and hitting them with clothes.⁴⁹⁵ Some workers mention "remand" punishment, in which they have to stand in front of a line for hours or more and are not allowed to talk to anyone.⁴⁹⁶ Table 12 illustrates the scenario of physical abuse for different survey reports.

Table 12 Physical abuse

Types	CARE OIKKO 2016 ⁴⁹⁷	ILO2020 ⁴⁹⁸	Kormojibi Nari 2019 ⁴⁹⁹	Kormojibi Nari 2021 ⁵⁰⁰
Slapping, biting	3.6%	3.4%	21%	27%

Source: made by author

Reasons for verbal and physical abuse are mistakes in work, coming late, taking leave, participating in the union and forcing them to meet production targets. Supervisors and line managers mainly harass workers, according to the workers. However, the majority of the female workers remain silent about the harassment because of fear of loss of jobs. If a female worker complains about harassment, both the victim and the accused might lose their job or face more abuse because of the complaint. Female workers also fear that management will

<https://www.karmojibinari.org/watch-report-on-rights-implementation-status-of-women-workers-in-bangladeshs-ready-made-garment-industries/> [Accessed Aug. 2022].

⁴⁹⁵ Ibid.

⁴⁹⁶ Matsuura, A. (2020). Understanding the Gender Composition and Experience of Ready-Made Garment (RMG) Workers in Bangladesh. [Online], https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_754669.pdf [Accessed 2021].

⁴⁹⁷ S.E.Habib, CARE OIKKO baseline study report 2016. <https://www.care.at/wp-content/uploads/2017/05/OIKKO-Baseline.pdf>

⁴⁹⁸ Matsuura, A. (2020). Understanding the Gender Composition and Experience of Ready-Made Garment (RMG) Workers in Bangladesh. [online] Dhaka Bangladesh: ILO. Available https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_754669.pdf [Accessed 2021].

⁴⁹⁹ Hossain, J. and Ahmed, M. (2019). "Work and Working Condition of Women Employed in Ready-Made Garment Industry of Bangladesh". [online] *Kormojibi Nari*. Available at: https://www.karmojibinari.org/wp-content/uploads/2021/08/Work-and-Working-Condition-of-Women-Employed-in-Ready_-Revised.pdf [Accessed 2020].

⁵⁰⁰ Hossain, J., Ahmed, M. and Akhter, A. (2021). "Watch Report on Rights Implementation Status of Women Workers in Bangladesh's Ready-Made Garment Industries". [online] *Kormojibi Nari* | কর্মজীবী নারী.

support the supervisor rather than them. Most significantly, women workers are not part of a union through which they can complain.⁵⁰¹

3.3 Sexual Harassment:

Only female workers experience sexual harassment in factories because of their gender. According to a recent study report by the Manusher Jonno Foundation (MJF), incorporated with Kormojibi Nari (KN), a survey in 22 factories in Dhaka and Chattogram between March and May 2018 revealed that 22.40% of female workers faced sexual harassment at factories.⁵⁰² "Sexual harassment has become a major cause for concern in Bangladesh, with an alarming rise in reports of women and girls being harassed", as per a national newspaper report.⁵⁰³ Sexual harassment consists of acts, from insults directed at a person's gender, suggestive comments or language, and demeaning remarks to unwelcome touching and grabbing and other physical assaults.⁵⁰⁴ In RMG industries, female workers are subjected to sexual harassment in two ways: 1) *quid pro quo* is a Latin phrase that means something for something, where one provides sexual favours in exchange for something else. In RMG factories, a large number of female workers work under a male supervisor. Sometimes, in favour of reducing workload or approval of leave or promotion, the supervisor asks for sex in return. 2) *hostile work environment*, where the behaviour of the supervisors, co-workers and line managers, like sexually coloured verbal representation or remarks or indecent gestures, teasing by abusive language, joking, stalking having sexual implications, showing porn, sending SMS or giving ph. Calls, writing sexually insulting words on the factory walls or in a toilet. This makes the workplace environment uncomfortable and could lead to sexual harassment.⁵⁰⁵ From different survey reports, Table 13 demonstrates the women's response to sexual harassment.

⁵⁰¹ ILO (2019). Improving Working Conditions in the RMG Sector Phase-II: Baseline Study Report (2017). [Online], Dhaka Bangladesh: International Labour Organization (ILO). Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_735614.pdf [Accessed Jun. 2020].

⁵⁰² Manusher Jonno Foundation (MJF) (2018). Study on Sexual Harassment against female workers at Workplace: Strategy to Combat and Way Forward. [online] Available at: https://www.manusherjonno.org/wp-content/uploads/2020/11/Study-Report-on-Sexual-Harassment-Update-24-09-19_printed-version.pdf [Accessed 2020].

⁵⁰³ Nawaz Farhin (2019). Workplace sexual harassment remains unreported, ignored. *Dhaka Tribune*. [online] 21 May. Available at: <https://www.dhakatribune.com/bangladesh/bangladesh-others/146066/workplace-sexual-harassment-remains-unreported>.

⁵⁰⁴ Begum, F., Ali, R.N., Hossain, M.A. and Shahid, S.B., 2010. "Harassment of women garment workers in Bangladesh". *Journal of the Bangladesh Agricultural University*, 8(452-2016-35685).

⁵⁰⁵ Osmani, N. and Hossen, B. (2018). Empowering Women in Bangladesh: A Study on the Problems of Working Women in Garments Industries. *European Journal of Social Sciences*, 57(3), pp.277–289.

Table 13 Sexual Harassment

Types	CARE OIKKO 2016 ⁵⁰⁶	ILO 2020 ⁵⁰⁷	Kormojibi Nari 2019 ⁵⁰⁸	Kormojibi Nari 2021 ⁵⁰⁹
Touching, rubbing, asking for sex, etc.	3.6%	3.0%	14%	32.6%

Source: made by author

The table shows that previously, female workers were not willing to disclose sexual harassment. In Bangladesh society, talking about sexual harassment is taboo. Fear of social embarrassment, and after revealing it, they may also face harassment from their family. Sadly, these poor, uneducated workers are unaware of what constitutes sexual behaviour. They consider it as male-dominated behaviour and stay quiet about it. They are not willing to make formal complaints about it, only share their grief with co-workers, supervisors and managers.⁵¹⁰ The silence about sexual harassment is the main source of stress among female workers, which has an impact on their health and productivity.

4. National Law for Workplace Harassment:

Unfortunately, the Bangladesh Labour Act 2006 (BLA) and the Bangladesh Labour Rule 2015 (BLR) do not provide any protection to female workers against harassment, specifically sexual harassment. The only mention of this issue is in section 332 of BLA, which states, "Nobody in a workplace where women are employed shall act inappropriately toward female employees, that may appear *indecent or repugnant* to the women's *modesty or honour*." The punishment for violating this rule is a fine of up to BDT 25,000 or a maximum three-month prison sentence.

⁵⁰⁶S.E.Habib,(CARE OIKKO 2016),“Baseline study report 2016”. Available at <https://www.care.at/wp-content/uploads/2017/05/OIKKO-Baseline.pdf>

⁵⁰⁷Matsuura, A. (2020). Understanding the Gender Composition and Experience of Ready-Made Garment (RMG) Workers in Bangladesh. [Online],https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_754669.pdf [Accessed 2021]

⁵⁰⁸Hossain, J. and Ahmed, M. (2019). “Work and Working Condition of Women Employed in Ready-Made Garment Industry of Bangladesh”. [online] *Kormojibi Nari*. Available at: <https://www.kormojibinari.org/wp-content/uploads/2021/08/Work-and-Working-Condition-of-Women-Employed-in-Ready-Revised.pdf> [Accessed 2020].

⁵⁰⁹Hossain, J., Ahmed, M. and Akhter, A. (2021). “Watch Report on Rights Implementation Status of Women Workers in Bangladesh’s Ready-Made Garment Industries”. [online] *Kormojibi Nari* | *কর্মজীবী নারী*.

⁵¹⁰ ILO (2019). Improving Working Conditions in the RMG Sector Phase-II: Baseline Study Report (2017). [Online], Dhaka Bangladesh: International Labour Organization (ILO). Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_735614.pdf [Accessed Jun. 2020].

An amendment to the Bangladesh Labour Rule 2015 is expected to be made on 1st September 2022, which could potentially safeguard the rights of female workers.⁵¹¹

Similarly, in the Bangladesh EPZ Labour Act 2019, Section 189 states, "Where any female is employed in any work of any enterprise, regardless of her rank, no one in that enterprise shall behave with her in any way that appears indecent or unmannerly, or that is repugnant to the modesty or honour of that female."⁵¹²

To provide a better working environment for employees, the Department of Inspection for Factories and Establishments (DIFE), a division of the Ministry of Labour, supervises monitoring the Bangladesh Labour Act of 2006 (BLA 2006), Bangladesh Labour Rules (BLR) and the Bangladesh Export Processing Zone Labour Act 2019(EPZ) are followed by establishments. The breach of section 332 also falls within the department's responsibilities if any female worker complains about harassment. The DIFE does not have administrative authority to take direct action against the accused person or establishment for breach of section 332. The DIFE inspectors can file a complaint about it in a labour court⁵¹³. Under section 215, "in terms of offence trial, the labour court shall follow the summary procedure outlined in the criminal procedure and shall have the same powers as a court of a magistrate provided in the criminal procedure."⁵¹⁴

Bangladesh has other punitive laws to protect women from harassment and operations like rape, murder, assault, and abuse, under the Bangladesh Penal Code 1860. The Penal Code of 1860 encompasses all forms of crimes and includes provisions to protect women in public and the workplace. For example, section 354 of the Penal Code 1860 states "that whoever assaults or uses unlawful force against any woman with the intention of *outraging her modesty* or with the *knowledge that such an act may outrage her modesty* shall be punished with a maximum of two years in jail and a fine". Furthermore, Other sexual offences without physical touch are prohibited by Section 509. In addition, anyone who uses language or makes a sound that is meant to be heard by a woman displays anything that is intended to be seen by a woman or

⁵¹¹ Bangladesh Labour Act 2006 (BLA). Section 332

⁵¹² Bangladesh EPZ Labour Act 2019. Section 189

⁵¹³ Yasmin, T. (2020). "Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh". [online] Dhaka. Bangladesh: International Labour Office. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_757149.pdf [Accessed 2021].

⁵¹⁴ Bangladesh Labour Act 2006 (BLA)Section 215

infringes upon a woman's privacy is subject to a fine, up to one year in prison, or both, according to the section.⁵¹⁵

Bangladesh's government passed a law in 2000 to provide more protection for women and children. The Women and Children Repression Prevention Act 2000 (WCRPA) is the primary legislation in Bangladesh that criminalises and imposes punitive punishments for various forms of violence against women, including rape, sexual assault, trafficking, kidnapping, dowry, and domestic violence. However, only Section 10 of the WCRPA 2000 specifies sexual assault or harassment in terms of indecent behaviour, which only includes offensive gestures and words directed at any woman.⁵¹⁶ Furthermore, section 10(2) states, "If any person touches the sexual organ or other organs of a woman or a child with any of his body's organs or with any substance in furtherance of his sexual desire, or he outrages the modesty of a woman, he shall be punished with imprisonment for minimum 2 years and maximum 7 years with fine"⁵¹⁷. The WCRPA 2000 was amended in 2003, and a new provision was inserted under Section 9, subsection (ka) of the act that imposes a punishment of 5–10 years in jail and an unspecified sum of fine for a person who compels a woman to commit suicide as a result of dishonour or sexual harassment or assault.⁵¹⁸

No further Act was enacted in Bangladesh to address the issue of sexual harassment after the WCRPA 2000 was amended in 2003. Later, the change of time and many forms of sexual assault and their horrific consequence on women in public and workplaces put the spotlight on the lack of a legal framework in Bangladesh. The Bangladesh National Female Lawyers' Association (BNWLA) filed a Writ Petition (No. 5916/2008) in the High Court Division (HCD) of the Supreme Court (SC) in 2008, requesting the adoption of a guideline to address the issue of sexual harassment.⁵¹⁹ In 2009, the HDC released its decision on the petition and directed the government to draft appropriate legislation to combat harassment in the workplace and educational institutions. The HCD provided a comprehensive list of sexual harassment-causing behaviours or acts, including both "*quid pro quo*" acts and activities that create a "*hostile working environment*"⁵²⁰. The list includes the following acts: a) unwelcome sexually

⁵¹⁵ The Bangladesh Penal Code 1860, section 507.

⁵¹⁶ Women and Children Repression Prevention Act 2000 (WCRPA), section 10.

⁵¹⁷ Women and Children Repression Prevention Act 2000 (WCRPA), section 10(2).

⁵¹⁸ Women and Children Repression Prevention Act 2000 (WCRPA), (amended 2003) section 9k.

⁵¹⁹ Case: *Bangladesh National Women Lawyers Association (BNWLA) Vs Government of Bangladesh and Others*. (2009), Writ Petition (No. 5916/2008).

⁵²⁰ Yasmin, T. (2020). Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh. [online] Dhaka. Bangladesh: International Labour Office. Available at:

determined behaviour (whether directly or by implication) as physical contact and advances; b) attempts or efforts to establish physical relation having sexual implication by abuse of administrative, authoritative or professional powers; c) sexually coloured verbal representation, demand or request for sexual favours; e) showing pornography; f) sexually coloured remark or gesture; g) indecent gesture, teasing through abusive language, stalking, joking having sexual implications. h) insult through letters, telephone calls, cell phone calls, SMS, pottering, notice, cartoon, writing on the bench, chair, table, notice boards, walls of the office, factory, classroom, or washroom having sexual implication. i) taking still or video photographs to blackmail and character assassination; j) preventing participation in sports, cultural, organisational and academic activities on the grounds of sex and/or for the purpose of sexual harassment; k) making love proposals and exerting pressure or posing threats in case of refusal to love proposal; and l) attempt to establish sexual relation by intimidation, deception or false assurance.⁵²¹

The guidelines' aims and objectives were to raise awareness about sexual harassment and to make it clear that it is a punishable offence. In the guidelines, the HCD requested that the authorities concerned establish a complaint centre at workplaces, educational institutions, and an anti-harassment committee to investigate charges, with a 5-member majority of women and experts. The guideline stated that if the accused is found guilty of sexual harassment, the establishments concerned may suspend the accused person upon receiving the anti-harassment Committee's recommendation. Suppose the establishments concerned treat the accused as guilty of misconduct. In that case, they must take appropriate action according to the disciplinary rules of all workplaces and educational institutions in the public and private sectors. If the act complained of constitutes an offence under any penal law, the matter must be resolved within 30 days and/or referred to the appropriate court or tribunal. The victim should complain about the harassment within 30 days.⁵²²

In 2010, another petition was filed in the HCD on harassment in public places. In the new guideline, the court included "stalking" as sexual harassment, and this guideline is directed

https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_757149.pdf [Accessed 2021].

⁵²¹Case: Bangladesh National Women Lawyers Association (BNWLA) Vs Government of Bangladesh and Others. (2009), Writ Petition (No.5916/2008).

⁵²² Yasmin, T. (2020). Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh. [online] Dhaka. Bangladesh: International Labour Office. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_757149.pdf [Accessed 2021].

toward the public authorities.⁵²³ Female RMG workers can take action under the penal laws mentioned above, as these laws apply to all women in case of harassment, specifically sexual harassment at factories.

5. Loopholes and Implementation Gaps in the Law

From the laws mentioned earlier, it was clear that Bangladesh lacks specific legislation to combat sexual harassment. Specifically, the BLA 2006 is the only law that protects workers' rights, and this act does not have any provision for sexual harassment in the workplace. Section 332 only states, "Any woman working in an establishment, nobody in that establishment shall behave with female workers in a way that may appear indecent or repugnant to the women's modesty or honour."⁵²⁴ The law does not clarify what behaviour is considered indecent and repugnant or what modesty and honour mean. It also does not provide any strict punishment in case of breach of section 332 of BLA2006. Because of unclear wording and a lack of knowledge about the provision, the victims do not complain about sexual harassment.⁵²⁵ Also, the limited capacity of the Labour inspections by the Department of Inspection for Factories and Establishments (DIFE) to identify a breach of section 332 is a major issue. According to the ILO report, in order to implement Section 332, inspectors during a factory audit only focus on three points: first, is there a complaint mechanism available? Second, are women workers aware of the complaint and investigation process? Third, do women workers perceive restraint when filing a complaint, which is practically insufficient to identify all types of workplace harassment with a limited number of inspectors? Compared to more than 4000 factories and 4 million workers in the RMG sector.⁵²⁶

The other two punitive laws, the Bangladesh Penal Code 1860 and the WCRPA 2000, also have some ambiguities. Section 354 of the Bangladesh Penal Code 1860 also states that any assault or criminal force used against a woman that will "outrage her modesty" is a punishable criminal offence, and section 509 also uses the same words, the modesty of a woman. Still, section 509 only considered acts that are not physical, like saying words, gestures, and showing an object to harass women.⁵²⁷

⁵²³ Case: "BNWLA v Government of Bangladesh (Writ Petition No. 8769 of 2010)".

⁵²⁴ Bangladesh Labour Act 2006 (BLA). Section 332

⁵²⁵ Newagebd.net. (2019). Study finds existing laws insufficient. [online] Available at: <https://www.newagebd.net/article/71482/study-finds-existing-laws-insufficient>. [Accessed 2020].

⁵²⁶ Yasmin, T. (2020). Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh. [online] Dhaka. Bangladesh: International Labour Office. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_757149.pdf. [Accessed 2021].

⁵²⁷ The Bangladesh Penal Code 1860 section 354, 509

Section 10(2) of WCRPA 2000 defines sexual assault as physical contact with the perpetrator, with the furtherance of *his sexual desire* and *outraging the modesty of the woman*. Here, proof of intention is necessary.⁵²⁸

The provisions have one common concept: "outrage the modesty" of women. However, it is a very ambiguous term and difficult to prove in court. Moreover, all sections lack a clear definition of sexual harassment. Another significant issue with the implementation of the laws is that cases filed in the Penal Code 1806 or WCRPA 2000 are tried under the Code of Criminal Procedure, 1898 (CrPC). It is the primary procedural law for almost all criminal trials. The CrPC 1860 lays out the entire procedure, from the preliminary report to the investigation and arrest of suspects and all stages of the trial, conviction, sentencing, and appeal. In criminal proceedings, the prosecution bears the burden of proof; however, without a legal definition of sexual harassment, it will be difficult for the victim to prove that the defendant's actions offend her modesty.⁵²⁹

Since the HCD direction in 2009, all the private and public institutions must follow these directions as law unless the government introduces new specific legislation. However, it was observed from the different workers' organisations' reports that the implementation of the HCD direction on sexual harassment at the workplace is not satisfactory. According to the Action Aid report, one of the reasons for the lack of implementation is an unawareness of the 2009 guidelines among managers and owners. Human Rights Watch survey on garment workers reported a lack of awareness among the workers.⁵³⁰ Karmojibi Nari's report in 2019 identified that 54.9 per cent were not aware of the anti-harassment committee in the factory, and 33 per cent said no anti-harassment committee exists in the factories among 1002 workers from 113 factories, illustrating the awareness situation among the workers⁵³¹. This report is a glimpse of the awareness situation among the workers. The Fair Wear Foundation (FWF) report also identified the same problem: a lack of understanding of the guidelines between workers and factory management.

⁵²⁸ Women and Children Repression Prevention Act 2000 (WCRPA), section 10(2).

⁵²⁹ Yasmin, T. (2017). Sexual Violence in Bangladesh: Addressing gaps in the Legal Framework. *Dhaka Univ. Stud. Part F*, 28, p.105.

⁵³⁰ Kashyap, A. (2017). Tackling Sexual Harassment in the Garment Industry. [online] *Human Rights Watch*. Available at: <https://www.hrw.org/news/2017/12/11/tackling-sexual-harassment-garment-industry>. [Accessed 2021].

⁵³¹ MONITORING WORK AND WORKING CONDITION OF WOMEN EMPLOYED IN READY-MADE GARMENT INDUSTRIES OF BANGLADESH (3rd Fact sheet April). (2019). [online] <https://www.karmojibinari.org/>. Karmojibi Nari. Available at: <https://www.karmojibinari.org/wp-content/uploads/2019/07/Third-Fact-sheet.pdf>.

They do not understand how the guidelines affect their rights and responsibilities⁵³². FWF also found during their project in Bangladesh that almost 50 per cent of the inspected RMG factories have an anti-harassment committee. Still, the majority of the workers do not know of the existence of the Committee. Sometimes, members of the Committee are also not aware of their membership. The managers of the factories are also not willing to consider verbal abuse harassment; to them, it is a normal norm part of factory management, and they understand only rape or act less than it as sexual harassment. Other indecent behaviours are not sexual harassment⁵³³. However, apart from the awareness issue, another major problem is the lack of a mechanism to enforce and monitor the implementation of the guidelines. The guidelines contain no instructions on how ministries and government organisations should collaborate to develop an implementation mechanism or which government organisations will monitor which sector of institutes and industries⁵³⁴.

Furthermore, in the absence of an awareness and enforcement mechanism, the guideline lacks a specific definition of "sexual harassment," instead providing a list of actions that can be regarded as sexual harassment. The guideline was also silent about the expiration of the complaint committee, membership, quorum, and protection of the complainant from the employers. In the case of factory inspection, the lack of training of the inspectors on the guidelines is also an obstacle to the implementation of the 2009 guidelines.

Employers' organisations in the garment industry, such as the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA), recognise the need for a strong mechanism to deal with sexual harassment in the workplace. According to them, factory owners are hesitant to include a committee member from outside the factory, as it will be difficult to find someone who will not be biased and will take their company's reputation into account⁵³⁵. Considering the reasons mentioned above, the 2009 guidelines are yet to be implemented ten years after their introduction, and the Bangladesh government is still unaware of how many educational

⁵³² Morris, J. and Pillinger, Jane (2018). Violence and harassment against women and men in the global garment supply chain. *ILO CONFERENCE 2018*. [online] www.fairwear.org/. Fair Wear Foundation. Available at: <https://api.fairwear.org/wp-content/uploads/2018/03/FWF-ILO-submission-final.pdf> [Accessed 2022].

⁵³³ Bangladesh country study 2018. (2018). [online] <https://api.fairwear.org/>. Fair Wear Foundation. Available at: <https://api.fairwear.org/wp-content/uploads/2019/03/Fair-Wear-country-study-Bangladesh-2018-new.pdf> [Accessed 2020].

⁵³⁴ Yasmin, T. (2020). "Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh". [online] Dhaka. Bangladesh: International Labour Office. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_757149.pdf [Accessed 2021].

⁵³⁵ Ibid

institutes and private sectors have an anti-harassment committee and how many complaints have been filed.

6. ILO Convention No. 190 and Its Significance

The International Labour Organisation (ILO) Convention No. 190 was adopted on June 10, 2019, and came into force on June 25, 2021. It is an important tool to stop violence and harassment at work. The convention was agreed upon at the International Labour Conference in Geneva, where 6,300 delegates from 178 member states of the ILO, including government officials, employees, and employers, participated. It shows a global commitment to addressing the widespread issue of workplace violence and harassment. The convention covers "every person in the world of work". It clearly defines the workplace, ensuring protections against violence and harassment apply to all work-related spaces and situations. It also emphasises the need for ILO member states to follow basic labour standards and prioritise the protection of women and vulnerable groups.⁵³⁶ In addition to Convention No. 190, Recommendation No. 206 provides guidelines to support its implementation and effectively address the need to combat workplace violence and harassment. Both Convention No. 190 and Recommendation No. 206 create a strong framework for countries to create safer working environments, focusing on protecting workers' rights and promoting a culture of respect and safety.

6.1 ILO Convention No. 190 and Violence and Harassment

Convention No. 190, Article 1(a) provides a clear and constructive definition of violence and harassment, encompassing a range of unacceptable behaviours such as threats that can cause physical, psychological, sexual, or economic harm. It also explicitly recognises gender-based violence and harassment as significant workplace issues, paving the way for constructive measures to address and prevent these behaviours.⁵³⁷

6.2 ILO Convention No. 190 and Gender-Based Violence

The ILO Convention No. 190, Article 1(b), further defines and addresses the issue of violence and harassment in the workplace, especially related to gender-based misconduct. The convention recognises that women and girls are disproportionately affected by such behaviour and emphasises the need for a gender-responsive approach. It aims to create a work

⁵³⁶Chapter 1 | ILO C190 Guide. (2019). [online] *ILO C190 Guide*. ILO. Available at: <https://c190guide.ilo.org/en/ratify-c190-chapters/chapter-1/> [Accessed 2021].

⁵³⁷ *Convention C190 - Violence and Harassment Convention, 2019 (No. 190)*. Article 1(a). Ilo.org. [online] Available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190 [Accessed 2020].

environment where everyone is respected and included, highlighting that violence and harassment not only violate human rights but also hinder equal opportunities⁵³⁸. The Convention is designed to have a positive impact on combating violence and harassment against female workers. Convention No. 190 will have an especially strong impact on sectors like Bangladesh's Ready-Made garment (RMG) industry. It includes measures to prevent and address these issues, providing a strong framework for member states to promote a safe and dignified working environment for everyone.

6.3 ILO Convention No. 190, Scope and Application

The ILO Convention Article 2 aims to protect individuals in the world of work. It encompasses a wide range of individuals, such as employees, interns, apprentices, terminated workers, volunteers, job seekers, and job applicants. It also includes those who exercise employer responsibilities.⁵³⁹ The scope of Article 3 of Convention No. 190 covers all sectors, including both formal and informal, in both urban and rural areas to ensure comprehensive and inclusive protection. The Convention also encompasses a wide range of situations and contexts, including workplace incidents, work-related trips, technology communications, employer-provided accommodation, and incidents during the commute to and from work. It provides broad protection from violence and harassment in various work settings, ensuring that individuals are safeguarded from the harmful behaviours mentioned above, regardless of the specific circumstances in which they occur. Overall, the Convention is designed to provide a detailed and comprehensive framework for addressing and preventing workplace violence and harassment.⁵⁴⁰

6.4 Responsibility of Member State

Convention 190, Article 4, requires member states to ensure that workplaces are safe and secure. It means creating laws and policies to address violence and harassment at work, enforcing these rules, and regularly checking workplaces to ensure they follow the standards. Countries must also set up ways to deal with and punish any violations, like fines or legal actions against those responsible. It's important to educate people about workplace harassment so that everyone knows how serious it is. Governments, businesses, and workers need to work

⁵³⁸ ILO Convention No. 190, Violence and Harassment Convention (2019). Article 1(b). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

⁵³⁹ ILO Convention No. 190, Violence and Harassment Convention (2019). Article 2 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

⁵⁴⁰ ILO Convention No. 190, Violence and Harassment Convention (2019). Article 3 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

together to make sure that workplaces are safe for everyone. This teamwork will help create a work environment that is free from dangers and puts the well-being of all individuals first.⁵⁴¹

Further, Article 5 emphasises the importance of protecting and promoting fundamental labour rights. These rights include freedom of association, collective bargaining, eliminating forced labour and child labour, and ensuring non-discrimination in employment. Article 6 also calls for the creation of laws and policies that ensure equality and non-discrimination in the workplace, especially for women and vulnerable groups affected by violence and harassment. The protection of women and vulnerable groups is given special emphasis, recognising that they are disproportionately at risk in certain sectors, such as the Ready-Made garment (RMG) industry. This prioritisation is crucial in addressing the unique challenges faced by these groups and ensuring that their rights are protected in the workplace.⁵⁴²

6.5 Prevention and Enforcement through National Legislation and Training

The key to preventing violence and harassment in the world of work lies in implementing constructive measures. This involves enacting laws and regulations to clearly define and prohibit such behaviours while acknowledging public authorities' role in protecting informal economy workers. Identifying sectors or occupations particularly vulnerable to violence and harassment is crucial, as is mandating employers take protective steps to prevent such incidents. Furthermore, it is essential to establish workplace policies, integrate violence and harassment into occupational safety and health management, conduct thorough risk assessments, and provide comprehensive information and training to workers and other relevant individuals (Articles 7–9).⁵⁴³

Further, Article 10 provides constructive measures to be taken by member states to address violence and harassment in the workplace. It emphasises the need for monitoring and enforcing national laws, providing access to remedies and reporting mechanisms, protecting privacy and confidentiality for the victim, imposing sanctions when necessary, and ensuring gender-responsive support for victims. Additionally, it highlights the importance of recognising the impact of domestic violence, empowering workers to remove themselves from dangerous situations, and granting authority to relevant authorities to intervene in cases of violence and

⁵⁴¹ ILO Convention No. 190, Violence and Harassment Convention (2019). Article 4 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

⁵⁴² ILO Convention No. 190, Violence and Harassment Convention (2019). Articles 5 and 6 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

⁵⁴³ ILO Convention No. 190, Violence and Harassment Convention (2019). Article 7 to 9 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

harassment. These measures aim to create a safer and more supportive work environment for all individuals.⁵⁴⁴

6.6 Implementation and Enforcement

According to Article 11, members need to collaborate closely with employers and workers to develop and implement comprehensive safety and equality policies to eradicate violence and harassment at work. It can be achieved by providing extensive training and resources to support these initiatives. The enforcement of the regulations established by the Convention necessitates utilising a combination of legal frameworks, agreements, and safety and health measures that aim to encompass the issues of violence and harassment. In cases where it is deemed necessary, specific measures should be formulated. These instruments not only guarantee adherence to the regulations outlined by the Convention but also facilitate the implementation of novel strategies that effectively tackle violence and harassment in the workplace. The Convention assumes official status upon achieving a consensus among its members, and it becomes operative as soon as at least two members have agreed. The complete execution of the Convention is scheduled for one year later, as detailed in Article 12.⁵⁴⁵

6.7 Supplementary Guidelines of Recommendation No. 206

Recommendation No. 206, which accompanies the International Labour Organisation (ILO) Convention No. 190 on violence and harassment, adds an extra layer of importance to this convention. While Convention No. 190 is legally binding for countries that ratify it, Recommendation No. 206 is a powerful tool to enhance its implementation. It emphasises workers' crucial role in advocating for their rights, potentially by forming trade unions, and highlights the significance of collective bargaining and anti-discrimination principles. The recommendation emphasises that national laws should align with ILO standards to consider equality and non-discrimination and ensure the effective application of Convention No. 190. It strongly calls for workplace policies based on national legislation and the urgent need for stronger regulations, particularly to protect individuals working in conditions where they are more vulnerable to violence, such as female workers.

⁵⁴⁴ ILO Convention No. 190, Violence and Harassment Convention (2019). Article 10 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

⁵⁴⁵ ILO Convention No. 190, Violence and Harassment Convention (2019). Article 11 and 12 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

6.8 Significance of Ratifying ILO Convention No. 190 and Recommendation No. 206 for Bangladesh

Bangladesh, as a member of the ILO, still has not ratified Convention No. 190 and Recommendation No. 206, which are crucial for safeguarding the rights of female workers in the Ready-Made Garment (RMG) industry. Ratifying these instruments is essential for enhancing legal and social protections for women employed in the RMG sector, as instruments address the prevalent issues of violence and harassment, particularly gender-based violence and sexual harassment, which are not adequately covered by the current national labour legislation. Convention No. 190 can bring about significant positive changes by acknowledging a wide range of forms of violence and harassment, focusing on the intent or actual harm caused without requiring a pattern of behaviour from the perpetrator. The convention encompasses violence and harassment in all work-related scenarios, including online communication, and mandates member countries and employers to proactively prevent and address these issues. A practical approach would help to rebalance the power dynamics between victims and perpetrators.

Further, by ratifying Convention No.190, Bangladesh would commit to international supervision on this critical issue and could enhance protection at the national level by incorporating international measures into national laws. However, the effectiveness of this ratification depends on Bangladesh's commitment to implementing the necessary policy deviations. Additionally, Bangladesh's inherent social norms and historical inequalities would pose supplementary obstacles to the successful implementation of the provisions outlined in Convention 190.

To create a positive and respectful work environment, it is essential to clearly define what constitutes sexual harassment. "Sexual harassment" encompasses any unwelcome behaviour of a sexual nature that undermines the dignity of both women and men. This behaviour is unacceptable, inappropriate, and offensive.⁵⁴⁶ The lack of education among female workers has resulted in insufficient knowledge of the law, particularly about sexual behaviour and harassment. Therefore, it is imperative to provide comprehensive training to female workers to increase their awareness and understanding of sexual harassment in the workplace and to empower them to report such behaviour. It is also important for those responsible for

⁵⁴⁶ Sexual harassment in the world of work What is sexual harassment? (n.d.). Available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/briefingnote/wcms_738115.pdf.

addressing complaints to understand what constitutes sexual harassment clearly and to address and effectively prevent such behaviour in the workplace.

However, for such training to be truly effective, it is crucial to establish a robust complaint mechanism within a factory. This is a significant challenge for the industry, as incidents of harassment and sexual harassment are unfortunately prevalent. Therefore, addressing this issue requires the training and implementation of a reliable system for reporting and addressing such misconduct.

7. Global perspective on workplace harassment

Workplace harassment is a prevalent and disadvantageous issue that has a profound impact on the lives of workers worldwide. Women workers are particularly disproportionately affected by harassment, especially sexual harassment. This not only impedes their ability to work and contribute to the global labour force but also has far-reaching implications for businesses. Sexual harassment in the workplace is also an obstacle in the way of achieving gender equality and discrimination. Some extensive research has consistently highlighted the damaging effects of harassment in the workplace, underscoring the urgent need for decisive action to address this critical issue.

According to a study by UCLA's WORLD Policy Analysis Centre, over one-third of the world's countries do not have laws in place to prohibit sexual harassment in the workplace. This lack of legal protection leaves approximately 235 million working women vulnerable when faced with an abusive supervisor or hostile work environment. Furthermore, 82 million women in 24 countries lack legal safeguards against gender-based discrimination in areas such as compensation, promotions, and vocational training.⁵⁴⁷

The study also revealed that 68 countries lack specific workplace protections against sexual harassment, leaving 424 million women at risk.⁵⁴⁸

In another report, the World Bank releases data every two years on laws safeguarding women from violence, including workplace sexual harassment, as part of its Women, Business and the Law series. The 2018 report and detailed country-level data reveal that in 59 countries, women lack legal protection from workplace sexual harassment.

⁵⁴⁷ UCLA, Newsroom. (2017). Nearly 235 million women worldwide lack legal protections from sexual harassment at work. [online] Available at: <https://newsroom.ucla.edu/releases/nearly-235-million-women-worldwide-lack-legal-protections-from-sexual-harassment-at-work> [Accessed 2023].

⁵⁴⁸ Heymann, J. and Vogelstein, R. (2017). Commentary: When Sexual Harassment Is Legal. [online] Fortune. Available at: <https://fortune.com/2017/11/17/sexual-harassment-legal-gaps/>. [Accessed 2020].

This absence of legal safeguards is prevalent in 70% of economies in the Middle East and North Africa, half in East Asia and the Pacific, and one-third in Latin America and the Caribbean, potentially impacting over 500 million women globally.⁵⁴⁹ The 2020 Women, Business and the Law study found that out of 190 countries examined, many have laws that do not adequately address sexual harassment in the workplace, which limits women's economic opportunities. In 2016, only 131 countries had relevant legislation, but now the number has risen to 140.⁵⁵⁰

The ILO-Lloyd's Register Foundation-Gallup, a reputable global research initiative, has conducted the inaugural global survey to examine individuals' encounters with violence and harassment in the workplace on a global scale. This survey encompasses a vast number of participants, totalling 74,000 workers hailing from 121 different countries and territories. The survey investigates three distinct categories of violence and harassment: physical, psychological, and sexual.⁵⁵¹

Nearly 23% of employed adults have reported experiencing some form of violence and harassment, which amounts to almost 750 million workers globally. The three main forms of violence and harassment, including psychological, physical, and sexual, have been experienced by hundreds of millions of workers. This is not just a statistic, but a stark reality. Psychological violence and harassment, such as insults, threats, bullying, or intimidation, was the most reported form, affecting around 18% of employed individuals, which represents nearly 590 million workers. Additionally, almost 9% of workers, approximately 280 million people, reported experiencing physical violence and harassment, such as hitting, restraining, or spitting.⁵⁵²

Remarkably, Women were more likely than men to report experiencing sexual violence and harassment, with around 6% of employed individuals, totalling more than 200 million, reporting such experiences, including 8% of women and 5% of men. Women, especially young women, are particularly vulnerable to sexual violence and harassment. 9% said they had faced it in the past five years, compared with 4% of young men. Further, migrant women face higher

⁵⁴⁹ TAVARES, P. and WODON, Q. (2018). Sexual harassment – Where do we stand on legal protection for women? *World Bank Blogs*. Available at: <https://blogs.worldbank.org/voices/sexual-harassment-where-do-we-stand-legal-protection-women> [Accessed 2022].

⁵⁵⁰ AREKAPUD, N. and RECAVARREN, I.S. (2020). Sexual harassment is serious business. *blogs.worldbank.org*. Available at: <https://blogs.worldbank.org/developmenttalk/sexual-harassment-serious-business>. [Accessed 2022].

⁵⁵¹ International Labour Organization, issuing body et al. (2022). *Experiences of violence and harassment at work : a global first survey*. [1st ed.]. [Online]. Geneva: ILO, pp. 1–65. Available at: <https://doi.org/10.54394/IOAX8567>.

⁵⁵² Crabtree, S. (2022). Global Study: 23% of Workers Experience Violence, Harassment. *Gallup.com*. Available at: <https://news.gallup.com/opinion/gallup/406793/global-study-workers-experience-violence-harassment.aspx> [Accessed 17 Mar. 2023].

risks of sexual violence and harassment at work compared to their male and non-migrant counterparts.⁵⁵³

8. Exploring EU Directives: Empowering Action Against Harassment in Bangladesh's RMG Sector

Harassment in the workplace, especially sexual harassment, is an important issue that the European Union (EU) is focused on to enhance women's participation in the labour market. To tackle this challenge, the EU has put in place a variety of regulations aimed at addressing workplace harassment. These regulations require member states to create robust legal frameworks and policies designed to prevent harassment in employment settings. Notably, one of the key directives is the Equal Treatment Directive 2006/54/EC, which prohibits both direct and indirect sex discrimination, as well as physical, verbal and sexual harassment in the workplace.⁵⁵⁴ Another significant directive is the Employment Equality Directive 2000/78/EC, which covers harassment based on religion or belief, disability, age, or sexual orientation.⁵⁵⁵

Poland has adopted EU directives into its national laws to tackle workplace harassment, including sexual harassment. These laws require employers to create policies and procedures to prevent and address harassment, with the goal of promoting a safe and respectful work environment for all employees.

In Poland, sexual harassment is not specifically categorised as a criminal offence in the Criminal Code. However, some acts or behaviours can be categorised as sexual harassment, such as abuse of position (Article 218), sexual coercion (Article 197) and sexual assault (Article 199). However, these acts can be addressed through legal action under Articles 198 and 199 of the Criminal Code. For a claim under the criminal core, Victims of workplace sexual harassment can file for compensation through civil proceedings. As per the recent change of July 2024, this compensation must be no less than the national minimum wage, which is PLN 4,300 (about EUR 1,003). The law aims to ensure that compensation is effective, fair, and designed to help prevent future incidents. Furthermore, the law does not impose any upper limit

⁵⁵³ Ibid

⁵⁵⁴ Directive 2006/54/EC Equal Treatment(Recast).eur-lex.europa.eu. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2006/54/oj>.

⁵⁵⁵ Directive - 2000/78 Employment Equality.Europa.eu. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2000/78/oj/eng>.

on compensation, allowing courts to take into account the unique circumstances and seriousness of each situation. It can also provide three years of imprisonment.⁵⁵⁶

Although the Polish Labour Code explicitly prohibits sexual harassment in the workplace, Article 18(3a) defines it as any unwanted behaviour with a sexual characteristic or related to an employee's sex, which can undermine their dignity. This is particularly concerning when such behaviour creates an intimidating, hostile, degrading, humiliating, or offensive working environment. The definition covers a wide range of behaviours, from physical actions to verbal interactions and even non-verbal cues.

Under the law, employees are obliged to prevent and address sexual harassment, which requires implementing preventive measures, conducting a thorough investigation upon complaint, and taking appropriate action against the offender. The law provides rights to employees who apprehend sexual harassment to file a complaint with the employer or relevant authorities. Employees who experience sexual harassment have the right to file complaints with their employer or relevant authorities and may pursue civil lawsuits against their employer or the harasser. The Labour Code does not limit compensation for sexual harassment, enabling potential significant penalties for employers who inadequately respond to the complaint.⁵⁵⁷

Moreover, the Romanian labour code does not explicitly specify sexual harassment in workplaces. To align with EU directives, Romania's legislation incorporates EU guidelines by designating sexual harassment in the workplace as a criminal offence under Article 223 of the Penal Code. The country has also introduced significant advancements in aligning with EU standards by enacting specific laws aimed at combating workplace harassment. For example, Government Ordinance No. 137/2000 addresses the prevention and penalisation of various forms of discrimination. Law No. 202/2002 highlights the importance of equal opportunities and fair treatment for every gender, explicitly forbidding sexual harassment in the workplace, Articles 7-13. Consequently, employers must develop internal regulations that incorporate strategies to prevent discrimination and harassment while also taking appropriate actions in response to any reported harassment cases.

⁵⁵⁶cms.law. (2004). Sexual harassment in the workplace in Poland | *CMS Expert Guides*. [online] Available at: <https://cms.law/en/int/expert-guides/cms-expert-guide-on-sexual-harassment-in-the-workplace/poland> [Accessed 8 Feb. 2024].

⁵⁵⁷Agnieszka, W.-S. (2024). Two Part Series On Sexual Harassment At Work -. *Aliant Law - A Leading International Law Firm*. Available at: <https://aliantlaw.com/part-ii-of-two-part-series-on-sexual-harassment-at-work-poland/> . [Accessed 17 Jun. 2024].

In October 2023, a new approach called the "Methodology for the Prevention and Combat of Gender-Based and Moral Harassment in the Workplace" was introduced by Government Ordinance No 970/12.10.2023 to enhance protection against harassment. This framework spells out the responsibilities of employers, who need to develop personalised policies that fit their exceptional situations. They should establish internal procedures to prevent and address both gender-based and psychological harassment while also guiding victims on how to seek justice. They can address their complaints through internal processes within their companies or pursue legal action, with compensation being determined by the specifics of each case.⁵⁵⁸ Hungary has established a range of laws and enforcement measures to tackle sexual harassment in the workplace. This framework is designed to comply with EU directives and aims to foster a safe and fair working environment. Similar initiatives can be observed in Romania.

Hungary employs a comprehensive approach to workplace sexual harassment through a combination of legislative frameworks and enforcement mechanisms aimed at creating a safe and equitable work environment. The Equal Treatment Act (Act CXXV of 2003) outlines “harassment as behaviour, both sexual and non-sexual, that violates human dignity and creates an intimidating, hostile, or degrading environment.”⁵⁵⁹ The act mandates that employers establish clear anti-harassment policies and procedures and proactive strategies to prevent harassment. The Hungarian Labour Code (Act I of 2012) Article 18 also features provisions akin to those in the Equal Treatment Act (2003), emphasising the importance of employee dignity and prohibiting any form of harassment in the workplace. Further the Criminal Code (Act C of 2012), which addresses behaviours related to harassment, including coercion and the exploitation of power for sexual gain, within its general provisions. For serious misconduct, offenders may face charges under this act.⁵⁶⁰

In Hungary, the responsibility for enforcing harassment regulations falls on the Equal Treatment Authority (ETA) and labour inspectors. The ETA looks into complaints related to violations of the Equal Treatment Act.

⁵⁵⁸Giura, N. (2024). Romania: Employers’ obligations deriving from the Methodology on Preventing and Combating Gender-based and Psychological Harassment in the Workplace. *bnt attorneys in CEE*. Available at: <https://bnt.eu/legal-news/romania-employers-obligations-deriving-from-the-methodology-on-preventing-and-combating-gender-based-and-psychological-harassment-in-the-workplace/>. [Accessed 18 Nov. 2024].

⁵⁵⁹ Amnesty International (2020). Hungary: No working around it: Gender-based discrimination in Hungarian workplaces. [online] [www.amnesty.org](https://www.amnesty.org/p20-23).p20-23. Available at: <https://www.amnesty.org/en/documents/eur27/2378/2020/en/> [Accessed 2023].

⁵⁶⁰ Cms.law. (2024). Regulations on sexual harassment in the workplace in Hungary. [online] Available at: <https://cms.law/en/int/expert-guides/cms-expert-guide-on-sexual-harassment-in-the-workplace/hungary> [Accessed Nov. 2024].

It has the power to impose fines and require organisations to make necessary changes if they're found non-compliant. On the other hand, labour inspectors play a vital role in conducting inspections to uphold workers' rights as defined in various labour laws. Penalties for harassment can vary depending on the severity of the offence. The ETA can levy administrative sanctions against employers, while more serious cases of misconduct could lead to criminal charges, resulting in significant fines and other severe penalties.⁵⁶¹

Employers are required to set up internal complaint processes where employees can report any instances of harassment. Suppose an employee feels that their issue has not been resolved internally. In that case, they have the option to take their case to the Employment Tribunal Authority (ETA) or contact labour inspectors for further investigation. These internal mechanisms are crucial for addressing complaints effectively. Additionally, victims of harassment can seek compensation for damages through civil lawsuits or, in serious cases, they can pursue criminal charges to hold offenders accountable.⁵⁶²

To address harassment in Bangladesh's ready-made garment (RMG) factories and protect female workers from sexual harassment, it is essential to consider international standards, particularly EU directives, alongside best practices from countries such as Poland, Romania, and Hungary. The EU Directive 2006/54/EC focuses on equal treatment and prohibits sexual harassment, while Directive 2019/1937 offers indirect protection for RMG workers by establishing a benchmark for the global supply chain. These directives mandate that EU buyers comply with ethical labour practices in their sourcing countries.

As a result, garment factories in Bangladesh are implementing internal mechanisms to address harassment in accordance with national laws and compliance demands from EU buyers. These internal anti-harassment committees offer a platform for workers to report grievances, establishing a system of internal accountability.

It is important to develop training and awareness programmes to support policy reforms effectively. EU buyers frequently seek out training modules aimed at workers and managers to help address issues such as sexual harassment, work ethics, and gender equality. NGOs like the Fair Wear Foundation (FWF) and the Ethical Trading Initiative (ETI) conduct these types of training in RMG factories to meet the global standard.

⁵⁶¹ Ibid

⁵⁶² Act I of 2012 on the Labor Code. Available at: <https://mta-pte.ajk.pte.hu/downloads/12-01.tv-en.pdf>.

Additional factories can establish a hotline to lodge a complaint or set up a complaint box, inspired by EU initiatives. However, these types of facilities are currently available in some large factories.

The enforcement of anti-harassment measures in Bangladesh's ready-made garment (RMG) industry is still inadequate, despite ongoing efforts to improve the situation. While there are strict penalties outlined in Bangladeshi labour laws and contracts with EU buyers, such as fines, blacklisting, and potential damage to a factory's reputation, actual conditions on the ground level illustrate a frustrating scenario. Insights from EU member states point to some practical steps that could make a difference. For example, implementing mandatory harassment training like Poland does could help raise awareness amongst workers and management. In comparison, Hungary's tougher penalties for offenders might encourage better enforcement locally. Additionally, Romania's focus on building external support systems could greatly aid workers who require assistance.

Female workers particularly face significant obstacles when it comes to reporting sexual harassment. Cultural stigmas and a lack of effective enforcement mechanisms often leave them feeling vulnerable, fearing social shame and potential backlash if they speak out. To tackle these issues, it is essential to strengthen labour inspections, provide better training for workers, and establish support services. Moreover, aligning Bangladesh's labour laws with the standards set by the International Labour Organization (ILO) and the EU is a collaborative effort that requires commitment from the government, NGOs, and international buyers. Together, they can help protect the rights and dignity of RMG workers, meet global labour standards, and foster a truly harassment-free workplace.

9. Recommendation to Eliminate Harassment in the RMG Industry

For the segments above, it is understandable that Bangladesh's labour laws are insufficient to protect workers from verbal and physical harassment in RMG factories. The BLA 2006 and BLR 2015, as well as the Bangladesh EPZ Act 2019, make no mention of harassment, even though both acts attempt to provide some protection to female workers. That is insufficient to address sexual harassment. Both acts need amendment. A new amendment was introduced in the BRL 2015 in early September 2022 to fill the legislative gap. Further details will be discussed in the next segment.

Section 332 of the BLA 2006 requires more clarification concerning the treatment of female employees; what acts should be classified as indecent? The BLA 2006 must include a

comprehensive list of behaviours. For example, a sexual joke may not be offensive to one female worker but may be to another. A complete list of indecent behaviours may assist male workers and management in understanding how they should behave.

Similarly, female employees will clearly understand when to speak up against harassment. Furthermore, "*women's modesty or honour*" requires a clear legal definition, as unclear words are difficult to prove in court. Indecent behaviours can have varying effects on women's modesty and honour, depending on their family, social, and educational backgrounds. The BLA 2006 may include flexible punishment and fines ranging from the minimum to the maximum, based on the type of harassment and its impact on the victim.

Section 189 of the Bangladesh EPZ Labour Act 2019 contains the same ambiguity as the BLA 2006. The law was silent on punishment in case anyone violated Section 189. As EPZ has its own Labour Court, the act should include a complaint mechanism where female workers can complain to the welfare association or factory management.

Following the adoption of ILO Convention 190 on the Elimination of Violence and Harassment in the Workplace, Bangladesh, as an ILO member, should incorporate ILO conventions into national labour laws to improve working conditions for all.

They are raising awareness about sexual harassment and the 2009 HCD guidelines in the community and at work, particularly in the RMG industries. Both workers and managers in the RMG industry must understand the HCD guidelines and what constitutes sexual harassment⁵⁶³. At the factory managerial level, they required training on how to deal with sexual harassment complaints⁵⁶⁴. Without specific legislation about sexual harassment in the workplace, the Ministry of Labour and Employment can introduce an effective mechanism to monitor whether the establishments follow the HCD 2009 guidelines, as the guidelines didn't provide a monitoring mechanism. The Department of Inspection for Factories and Establishments (DIFE) must expand its inspection capacity. The DIFE must educate inspectors on sexual harassment and the law to effectively respond to cases of violence and harassment.

⁵⁶³ Sultan, M. (2018). Sexual harassment of RMG workers. *The Daily Star*. [online] 13 Dec. Available at: <https://www.thedailystar.net/star-weekend/labour-rights/news/sexual-harassment-rmg-workers-1673149> [Accessed 2023].

⁵⁶⁴ Morris, J. and Pillinger, Jane (2018). Violence and harassment against women and men in the global garment supply chain. *ILO CONFERENCE 2018*. [online] www.fairwear.org/. Fair Wear Foundation. Available at: <https://api.fairwear.org/wp-content/uploads/2018/03/FWF-ILO-submission-final.pdf>. [Accessed 2022].

Forming an active anti-harassment committee in every RMG factory. With an expert member of the Committee.⁵⁶⁵

10 Conclusion

It is crucial to tackle and eradicate all types of harassment inside businesses worldwide. The lack of explicit legislation and established workplace protocols has resulted in substantial instances of verbal, physical, and sexual harassment experienced by female employees in labour-intensive sectors like the RMG industry. This behaviour is a significant infringement of labour and human rights and has the potential to impede the expansion of the RMG business in Bangladesh in the global competitive market. To maintain Bangladesh's standing in the international market, it is imperative for the government and associations of factory owners, such as BGMEA and BKMEA, to adopt proactive measures to ensure a secure and non-threatening workplace for employees. In response to ongoing pressure from the European Union (EU) and the International Labour Organisation (ILO), as well as complaints filed under Article 26 of the ILO Constitution, the government has made amendments to the Bangladesh Labour Rules 2015 (amendment 2022). These amendments became effective on September 1, 2022. Simultaneously with this modification, the government implemented the EPZ Labour Rule 2022 on October 4th, only targeting EPZ workers. These measures demonstrate a favourable change aimed at guaranteeing a secure and more considerate work atmosphere for all workers.

Further, the Bangladesh Labour Rule (BLR) 2015(amendment 2022) added a new rule to protect female workers under Rule 361, which balances section 332 of the Bangladesh Labour Act 2006 and defines sexual harassment. In BLR 2015 rule 361(ka), sub-rule 1 stated, "When a woman is employed in any work of any establishment, no one in that establishment shall harass her sexually or behave with her in a manner that is insulting, impolite, and repugnant to the modesty or honour of that woman, or that appears sexually indecent or disrespectful"⁵⁶⁶. Furthermore, the rule also provided lists of behaviours that would be considered sexual harassment, which aligns with the HCD guidelines. Rule 361(ka), sub-rule 2, requires employers to form a Complaint Committee to prevent sexual harassment in the workplace. The

⁵⁶⁵ Yasmin, T. (2020). Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh. [online] Dhaka. Bangladesh: International Labour Office. Available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-dhaka/documents/publication/wcms_757149.pdf. [Accessed 2021].

⁵⁶⁶ Labour rules amended. (2022). *Newagebd.net*. [online] 5 Sep. Available at: <https://www.newagebd.net/article/180397/labour-rules-amended> [Accessed 2022].

Complaint Committee will consist of a minimum of five members, with the majority of the members being women; the Committee's head will also be a woman. Sub-rule 3 puts the employer responsible for formulating guidelines to prevent sexual harassment, circulate them to all the employees, and put a complaint box at the establishment. All the complaints should be addressed after being lodged on a register. It was observed that the new amendments to tackle sexual harassment in the workplace are a precise adaptation of the HCD 2009 guidelines.⁵⁶⁷ In EPZ Labour Rule 2022, Rule 316 (1-2) also describes provisions as BLR 2022. The new amendment's impact on sexual harassment in the workplace needs further research over time to understand. Although the recommendations mentioned above are based on the law before the amendment comes into effect, I hope the government and factory management will consider the law seriously, and effective punishment under labour law for sexual harassment at the workplace will provide better protection.

However, the government should have considered the ILO's new convention No. 190 to eliminate workplace violence and harassment, which defines sexual harassment as gender-based violence. The convention was enacted on June 25, 2021, and 11 countries ratified the convention. Bangladeshi labour rights experts, non-governmental organisations, and labour organisations are negotiating with the government to incorporate ILO Convention 190 into the country's labour law. However, simply enacting new legislation will not suffice. Eliminating workplace harassment will depend on the law's implementation and the perpetrator's severe punishment. Along with the law, social awareness about sexual harassment against women is also required.

Buyers should also monitor the safety measures of their suppliers' factories for female workers. Owners and buyers must eliminate harassment in the RMG industry because harassment causes mental stress and insecurity in female workers. This will affect their performance and productivity. To achieve high performance and high-quality output, harassment must be eliminated.⁵⁶⁸

⁵⁶⁷ Abrar, M.S. (2022). Amendment to the Labour Rules 2015: Safer Workplace for Women. *The Daily Star*. [online] 15 Sep. Available at: <https://www.thedailystar.net/law-our-rights/news/amendment-the-labour-rules-2015-safer-workplace-women-3120696> [Accessed 2024].

⁵⁶⁸ Sultana, D.A. (2023a). Law to Combat Harassment in Bangladesh RMG Industry. *Jog állam politika*, 15(4), pp.213–228. <https://doi.org/10.58528/jap.2023.15-4.213> .

CHAPTER 5

Conclusive Remarks and Future Prospects

1 Research findings

The labour laws in Bangladesh are still in the process of development, with two distinct sets of laws creating disparities among RMG workers. The Bangladesh Labour Act (BLA) applies to all workers across industries in the country, while the EPZ Labour Act is exclusive to workers within Export Processing Zones (EPZs). This difference in legislation indirectly affects workers with similar job statuses, placing one group at an advantage over the other based solely on geographic location and legal framework. One of the longstanding issues faced by RMG industry workers is low wages, which continue to persist. The wage-setting process must be transparent and equitable under the law, ensuring fairness for all workers. Discrepancies in wage structures across industries pose a challenge, especially considering that the cost of living remains consistent for workers nationwide. It is worth noting that the current labour laws in Bangladesh only guarantee the minimum wage rather than a living wage. Providing a minimum wage does not necessarily guarantee that workers earn enough for a decent and dignified standard of living. Therefore, there is a pressing need to address this gap and strive to ensure that all workers receive wages that enable them to live with dignity and meet their basic needs.

In November 2023, the government of Bangladesh decided to increase the minimum wage for RMG workers by a substantial 56.25 per cent. The adjustment raised the wage from 8000 TK to 12000 TK (equivalent to about 114 USD). However, in December 2023, a new minimum wage of 12800 TK (approximately 117 USD) was introduced by the EPZ minimum wage board for RMG workers in EPZs. Despite these modifications, the revised wage rates were met with discontent among the workers, sparking labour demonstrations calling for further increments. Regrettably, the dissatisfaction among the labour force escalated into a full-fledged labour demonstration, resulting in property damage, injuries, and even fatalities among the workers. This pattern of labour unrest and tragic occurrences has evolved into a recurring challenge in Bangladesh, with such demonstrations and their repercussions occurring roughly every five years.⁵⁶⁹

Addressing the wage issue in the industry requires a comprehensive approach from both the government and employers. Merely relying on implementing laws and setting wages is not

⁵⁶⁹ Bangladesh hikes minimum wage for garment workers after protests. (2023). *Reuters*. [online] 8 Nov. Available at: <https://www.reuters.com/world/asia-pacific/bangladesh-hikes-minimum-wage-garment-workers-after-protests-minister-2023-11-07/>

enough to ensure fair compensation for Ready-Made Garment (RMG) workers. It is essential also to consider the significant influence that buyers have on the situation. Buyers play a crucial role in determining the earnings of RMG workers through their purchasing practices. Often, buyers prioritise maintaining minimum wages to keep production costs low, which allows factory owners to keep product prices stable. However, this practice can lead to a situation where workers are pushed into poverty due to stagnant wages. To address this issue effectively, a holistic approach involving all stakeholders is necessary. This approach should aim to establish fair wages and improve working conditions for RMG workers. By involving the government, employers, buyers, and other relevant parties, it becomes possible to create sustainable solutions that prioritise the well-being of workers in the industry.

It is important to recognise the complex relationship between low wages and other labour rights violations within the industry. Low wages predominantly impact women, making them more susceptible to harassment and exploitation. The need to work overtime to make ends meet further hinders female workers from organising and demanding improved working conditions through unions. This interconnectedness underscores the need for comprehensive solutions that address not only low wages but also the broader systemic issues that perpetuate labour rights violations in the workforce.

In cases of violation of law, it is crucial to ensure that proper justice and remedies are provided to the workers. In Bangladesh, separate labour courts are established to handle such cases. However, the backlog of cases in these courts often impedes the delivery of justice to the workers. In Bangladesh, there is a backlog of 21,617 lawsuits in labour courts, with approximately 75% of cases unresolved within the specified timeframe. Some cases have been pending for a decade, causing significant delays and hardships for workers seeking justice. The Labor Act stipulates that judgments should be delivered within 60 days of filing, with a possible 90-day extension under valid reasons. The backlog is primarily due to a lack of courts, ineffective case resolution measures, and tactics employed to delay proceedings. Efforts are underway to address these issues, including the expansion of labour courts.⁵⁷⁰ Cases under specific sections of the Labor Act are particularly time-consuming, with challenges arising from the non-attendance of key parties during hearings. Many plaintiffs lose sight of their cases due to the lengthy process, leaving workers without proper recourse while employers escape

⁵⁷⁰ Hassan, A. (2024). Labour rights: 22,000 lawsuits pending at labour courts. [online] *Prothomalo*. Available at: <https://en.prothomalo.com/bangladesh/lkuoe2419d> [Accessed 20 Mar. 2024].

accountability. By implementing more efficient case management strategies, ensuring the presence of all relevant parties during hearings, and streamlining legal procedures, the justice system can better serve the interests of both workers and employers, thereby upholding labour rights effectively.

In terms of promoting gender equality in the RMG industry, it is noteworthy that the labour laws have been aligned with the ILO standards. However, the effective implementation of these laws to provide necessary facilities to female workers remains a matter of concern. The regulations place the responsibility on employers to provide maternity benefits, childcare facilities, and medical amenities in the factory. Arguably, the sole reliance on employers to provide these gender-based facilities has resulted in inadequate implementation. In developed countries, maternity benefits are supported by social protection systems or other insurance schemes. It is now time for the government to realise the importance of a robust social security system. Investing in maternity benefits and childcare systems will not only advance female workers in the labour market but also promote social and economic development. Therefore, it is crucial to prioritise the implementation of these facilities to ensure gender equality in the RMG industry. However, it is a debatable issue how feasible it is for Bangladesh as a developing country to contribute to maternity benefits and childcare systems to advance female workers in the labour market.

In Bangladesh, the availability of gender-segregated facilities such as separate toilets, washing facilities, and dining facilities in factories can vary depending on the size of the factory. Smaller factories may not always have their premises, which can make it challenging for them to comply with legal requirements for separate facilities. It can lead to difficulties in implementing the law effectively. To address this issue, it is essential to provide support and guidance to smaller factories to help them meet the necessary standards. This can be done through initiatives such as offering financial incentives for compliance and providing access to resources for facility improvements.

The issue of harassment, especially sexual harassment, in the RMG industry has been a long-standing concern. The recent changes in labour laws to address this issue are undoubtedly a positive step forward. However, the effectiveness of these changes will depend on the implementation process. It is crucial to have a comprehensive mechanism in place to address harassment complaints swiftly and effectively. For the elimination of harassment in the RMG industry, punishment for perpetrators should be strict to serve as a deterrent, and measures to ensure the safety of victims must be prioritised.

It is crucial to emphasise the importance of raising awareness about the new labour laws and ensuring that female workers are fully informed about their rights. Educating workers about the different types of harassment they may encounter in the workplace is essential to safeguarding their labour rights and preventing any violations. By empowering workers with knowledge and understanding of their rights, we can create a safer and more equitable working environment for all industry employees.

In today's era of technology, implementing digital machines to supervise the input of workers can help prevent instances of assault against female workers. By using digital machines where workers can input their work using a digital ID card, management can easily assess the targets fulfilled by workers and evaluate their skill levels. This can lead to a more efficient and productive workforce while also ensuring a safe and fair work environment for all employees. Therefore, companies must invest in technology and education to create a workplace that is both productive and free from harassment and discrimination.

In the context of Bangladesh's Ready-Made Garments (RMG) industry, the implementation of labour laws is a crucial element for ensuring a fair and safe working environment for workers. The nature of the business and labour management practices in the industry have perpetuated abusive behaviour, necessitating regular inspections of the factories. The inspections aim to ensure that the factories provide timely wages, follow regulations related to gender equality, and establish complaint cells for sexual harassment issues. Unfortunately, the Department of Inspection for Factories and Establishments (DIFE) in Bangladesh is understaffed, which has resulted in a deficient inspection of RMG industries and contributed to labour rights violations in the sector.

To address this challenge, a robust inspection process and punishment power for inspectors can encourage factories to comply with labour regulations. Such measures can facilitate the creation of a constructive and equitable working environment for employees in the RMG industry. Thus, there is a need to strengthen the inspection process and ensure proper staffing of inspectors to enforce labour regulations and improve the quality of working conditions in the Bangladesh RMG industry.

The BLA regulations on forming unions are very strict. In addition, the Export Processing Zones (EPZs) have limitations on creating unions under the EPZ Labor Act. These two factors create an environment where labour rights violations can occur without any accountability. The lack of proper checks and balances means that workers in these zones are particularly

vulnerable to being exploited and abused. Simply following the national legislation to the standards set by the International Labor Organization (ILO) is not enough to address these critical issues effectively. The lack of strong enforcement mechanisms and the presence of loopholes in the existing legal framework make workers even more vulnerable to exploitation and abuse. This regulatory environment not only undermines the fundamental rights of workers but also perpetuates a cycle of injustice and inequality within the labour force. Failure to address these inherent flaws in the current regulatory system perpetuates a culture of impunity and puts the well-being and dignity of the workforce at risk.

2 Government Role in the Development of Labour Law and Labour Protection

2.1 Advancements in Bangladesh Labour Laws

The Bangladesh government has initiated a comprehensive National Action Plan (NAP) aimed at enhancing workers' rights and safety from 2021 to 2026 in collaboration with the European Union and other stakeholders. This plan encompasses various measures, such as amendments to existing laws and regulations, the provision of training, and advocacy for improved working conditions, with active participation from all parties involved. The plan consists of nine key components, including initiatives to update labour laws to align with international standards and the establishment of new regulations for special economic zones.

The National Action Plan (NAP) includes the following areas:

1. Bring Bangladesh labour laws into compliance with ILO standards regarding freedom of association and collective bargaining.
2. By 2025, eliminate all forms of child labour.
3. Take action against violence towards workers, harassment, unfair labour practices, and discrimination against unions.
4. Improve the success rate of trade union registration applications, both paper-based and online.
5. Address the backlog of cases in labour courts, including those in the Dhaka Metropolitan Area. Establish an efficient system to address worker complaints received through a helpline.
6. Increase the number of labour inspectors and ensure that the labour inspectorate is fully functional.
7. Ensure that the Remediation Coordination Cell is operating effectively and transition to the Industrial Safety Unit.
8. Promote close cooperation between the RCC/ISU and the RMG Sustainability Council.
9. Ratify the ILO Convention on the Minimum Age and the Forced Labor Protocol.

For this research, a few specific plans will be analysed. Bangladesh has been actively revising its National Plan of Action (NPA) and labour laws to better conform with international standards and safeguard the rights of workers. The recent government modified the Bangladesh Labour Rules (BLR) in September 2022 and published them through a gazette notification on 1 September 2022 (S.R.O No.-284-Law/2022). It demonstrates a concerted effort to align with international worker rights.⁵⁷¹

Additionally, the Bangladesh Labour (Amendment) Bill 2023, which proposes amendments to the Bangladesh Labour Act (BLA) 2006, was introduced to the parliament on 29 October 2023. Subsequently, it was referred to the parliamentary standing committee of the Ministry of Labour and Employment (MoLE) for examination and the submission of a report within three days. Ultimately, the Bill was approved in the parliament on 2nd November 2023 during the final session of the 11th parliament. It was subsequently forwarded to the President on 8 November 2023 for his assent.⁵⁷² Furthermore, the ongoing discussions on further revisions to the Labour Rules to comply with new changes in the BLA 2006 showcase Bangladesh's strong commitment to enhancing labour regulations and creating a more favourable environment for employees in line with global standards. This proactive approach demonstrates the country's unwavering determination to improve labour standards and prioritise the welfare of workers continuously.⁵⁷³

The new Bangladesh Labour Act (BLA Amendment) of 2023 brings about positive changes that aim to benefit female employees and workers' rights. The extension of maternity to 120 days. Previously, it was 16 weeks, allowing for flexibility in taking maternity leave, which demonstrates a commitment to supporting the well-being of female employees. Furthermore, with the relaxation of requirements for forming a trade union, the 20 % requirement of the signature of workers is now reduced to 15% in a company or factory with more than 3000 workers and 20% for less than 3000 workers.

The new amendment stipulates that the decision of the Labour Appeal Tribunal can now be contested in the Appellate Division rather than the High Court Division of the Supreme Court.

⁵⁷¹ Implementation Status of National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026). (2023). [online] Government of the People's Republic of Bangladesh Ministry of Labour and Employment, pp.1–20. Available at: <https://mole.gov.bd>.

⁵⁷² Karim, R. (2023). President returns labour amendment bill. [online] Prothomalo. Available at: <https://en.prothomalo.com/bangladesh/government/gtsb80739a> [Accessed 19 Jan. 2024].

⁵⁷³ Implementation Status of National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026). (2023). [online] Government of the People's Republic of Bangladesh Ministry of Labour and Employment, pp.1–20. Available at: <https://mole.gov.bd>.

This change is significant as a High Court judge leads the tribunal. These amendments reflect a proactive approach by the government to tackle specific labour issues and bring the country's labour laws in line with global standards, emphasising the significance of freedom of association and collective bargaining.⁵⁷⁴

The Ministry of Law reviewed the draft for new labour rules in Export Processing Zones (EPZ) on March 6, 2022, which aims to protect workers' rights and the working environment. The rules include provisions to prevent unfair treatment and violence, particularly against women. These comprehensive rules, comprising 15 chapters and numerous details, were officially published in the Bangladesh Gazette on October 4, 2022. Additionally, plans to update the Bangladesh EPZ Labor Act of 2019 will commence in July 2023, with a target to conclude by June 2025, ahead of the original December 2026 deadline. Collaborating with the International Labour Organization (ILO), the Bangladesh Export Processing Zone Authority (BEPZA) is striving to enhance labour conditions, as evidenced by meetings held in August and September 2022 to deliberate on these improvements.⁵⁷⁵

2.2 Advancements in Workplace Harassment and Discrimination

The "Advancing Decent Work in Bangladesh" project, launched by the ILO, aims to enhance enforcement in addressing anti-union discrimination and unfair labour practices. The project focuses on developing tools to improve the functionality of enforcement and capacitating government enforcement officials and social partners for improved functionality. The key developments are that the Department of Labour (DoL) trained 32,385 workers, management staff, and government officials from July 2020 to September 2023, with nearly 40% being female participants. A workshop was held on the remediation of unfair labour practices/anti-trade union discrimination for representatives of workers, employers, and various government departments. The Industrial Police conducted training for their officials and organised sensitisation workshops on workers' rights and the use of minimum force during labour protests. BEPZA conducted regular training programmes for workers, employers, management staff, security personnel, and industrial police on various labour-related laws and practices, with three training programmes organised for 5,017 participants from June 2021 to July 2023. Overall, the project has made significant strides in training and raising awareness to prevent

⁵⁷⁴ Bangladesh Labour (Amendment) Bill, 2023' passed in parliament. (2023). *Dhaka Tribune*. [online] 2 Oct. Available at: <https://www.dhakatribune.com/bangladesh/parliament/329868/%E2%80%98bangladesh-labour-amendment-bill-2023%E2%80%99-passed> . [Accessed 10 Jan. 2024].

⁵⁷⁵ Ibid

unfair labour practices and discrimination, with a focus on gender-sensitive facilitation skills and effective workplace cooperation.

Further databases for training programmes are managed by DoL, BEPZA, and the Ministry of Home Affairs, separately with details like name, job, and demographics. BEPZA's new online database from March 2023 complements manual records, while the Ministry's database focuses on police training. A Bangla compendium of laws for the Industrial Police LEAs was approved on September 12, 2023, to help them understand and apply the rules.⁵⁷⁶

To train the police the Department of Labour and the Ministry of Home Affairs regularly train police and law enforcement on using less force and respecting workers' rights. In October 2023, three new training sessions were held, and a special workshop took place in August for about 30 police leaders.

The Department of Labour (DoL) takes proactive measures to address workplace issues by providing continuous training to its inspectors on how to handle union-related complaints and unfair workplace practices effectively. Employees are regularly educated about their rights, including how to file a complaint and seek legal help if their rights are violated. The DoL conducts workshops and training sessions for both its officials and workers to ensure a comprehensive understanding of and effective response to unfair labour practices and discrimination against unions.

The Industrial Police and the Department of Labour (DoL) extend their training to managers and security grades to handle complaints and assist with investigations into workplace violence and harassment. Government ministries provide agencies with guidelines and training on how to handle incidents of violence and harassment against workers during protests. Judicial and law enforcement personnel receive ongoing training, with the International Labour Organization's help, to improve their response to such complaints.

The government has taken proactive steps to combat worker harassment by forming the CFA-Case Monitoring Committee on 23rd January 2023, which aims to speed up the resolution of old cases. Additionally, fines are being imposed on employers who discriminate against unions, and there are plans to increase these penalties potentially.

⁵⁷⁶ Implementation Status of National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026). (2023). [online] Government of the People's Republic of Bangladesh Ministry of Labour and Employment, pp.6 Available at: <https://mole.gov.bd>.

To ensure transparency, a public database now tracks these cases. As of September 2023, there have been 67 complaints, with 46 cases resolved and 21 still under investigation as of January 2020.⁵⁷⁷

In February 2023, the NTCC (National Tripartite Consultative Council) and RMG-TCC (Tripartite Consultative Councils) conducted self-assessments, resulting in the publication of a report titled "The Assessment on the Effectiveness and Inclusiveness of the (NTCC)" and an "Action Plan to Enhance the Effectiveness and Inclusiveness of the National TCC." The ILO Country Office aims to provide technical assistance to the Government of Bangladesh in implementing the Action Plan. Additionally, multiple meetings of both the NTCC and RMG TCC were held from January 2022 to September 2023.

In addition, the Department of Labour (DoL) and the International Labour Organisation (ILO) are developing a plan to teach social partners about social dialogue and collective bargaining through a series of educational events.

2.3 Advancements in Trade Union Registration

The ILO has launched a new initiative called "Advancing Decent Work in Bangladesh" to develop a collaborative action plan for Freedom of Association (FoA) and Collective Bargaining (CB). This will be followed by the creation of a monitoring and evaluation system to determine the efficacy of both traditional and online Trade Union registration systems. Since October 2022, workers can join unions online, and government officials have been trained to use this system.

According to the DoL information, from November 2022 to September 2023, a total of 685 applications were submitted to the Department of Labour for trade union registration. Out of these, 293 applications were approved, while 91 were denied. Currently, 338 applications are still under review and undergoing the processing stage. A pre-application service was established at each Registrar of Trade Union (RTU) under the DoL in January 2021 to help applicants submit well-prepared online registration applications. Now the registration of trade unions is available both offline at labour offices and online, with a growing number of over 9,000 trade unions and 3 million members registered as of September 2023. The Department of Labour (DOL) conducts training programmes for workers and employers on the trade union registration process, with a specific focus on improving the handling of offline and online applications. In January 2023, a workshop on online registration was organised, and from July

⁵⁷⁷ Ibid

2020 to September 2023, the DOL trained over 32,000 individuals, including a significant number of women, on various labour-related topics, including trade union registration.

Since September 2023, there has been a significant increase in trade union registrations, with over 3 million members spread across 9,398 unions. The Department of Labour actively encourages registration through both offline and online processes. The DoL also emphasises female participation and has trained 32,385 people, including both workers and employers.⁵⁷⁸

2.4 Advancements in Labour Court

To deal with the high volume of cases, new labour courts have been established in Sylhet, Barishal, and Rangpur. In addition to this, training sessions have been conducted for court employees to improve their case management skills. Furthermore, additional courts in Narayanganj, Gazipur, Cumilla, and Faridpur are now operational, with the goal of meeting the growing demand for labour dispute resolution services. Efforts are being made to expand the capacity of the Labour Appellate Tribunal by adding an extra judge and staff. This move is expected to speed up the appeals process and ensure that labour disputes are resolved on time.

Moreover, a workshop has resulted in the development of new methods for expediting trials, which will contribute to the efficient handling of labour-related cases. The ILO's "Advancing Decent Work in Bangladesh" project focuses on developing tools for more efficient case handling. This initiative seeks to improve the overall effectiveness of labour dispute resolution mechanisms and to promote decent work in Bangladesh. The MoLE is striving to enhance court facilities through the utilisation of current office spaces and has already upgraded certain courts.

The ILO's project aims to improve the country's Alternative Dispute Resolution (ADR) system. From 2013 to August 2023, the Department of Labour (DoL) received 114 conciliation applications, the majority of which were resolved, and only three remained pending. A Standard Operating Procedure (SOP) for conciliation has been approved, and 15 conciliators have been assigned to resolve disputes in a variety of areas. In addition, a Conciliation and Arbitration Cell has been established to help resolve disputes. The Ministry of Labour and Employment (MoLE) has also established a standard conciliation procedure and appointed 15 conciliators to handle industrial disputes in various regions.⁵⁷⁹

⁵⁷⁸ Ibid.p7

⁵⁷⁹ Ibid p11-13

2.5 Advancement of Compliant System

Under the ILO's project, the workers' helpline (16357), which was established in June 2020, is still operational and has received 1,307 complaints from July 2022 to June 2023, with 1,210 of them resolved. For the improvement of the function of the helpline, the number of labour inspectors on duty has been increased from three to six. In addition, a Complaint Management Cell was established at the Department of Inspection for Factories and Establishments (DIFE) to handle complaints directly. This cell oversees tracking the progress of complaint resolution and organising training for the assigned Labour Inspectors. Overall, the goal of these measures is to improve the efficiency with which worker complaints are handled through the helpline.

The complaints database that was established in December 2021 has recorded 6,842 complaints from July 2022 to June 2023 and an additional 2,041 from July to September 2023. Most of these complaints have been successfully resolved, while some are still being dealt with. The labour inspectors are currently undergoing regular training sessions to improve their complaint-handling skills, which are tailored to their specific needs. The BEPZA Helpline 16128, which was introduced in March 2021, provides 24/7 assistance to EPZ workers and has effectively resolved almost all the 7,192 calls it has received.⁵⁸⁰

2.6 Advancement of the Labour Inspection Department

The Department of Inspection for Factories and Establishments (DIFE) in Bangladesh has taken a positive step by increasing the number of labour inspectors to 398. It was accomplished by hiring 95 new inspectors and promoting 21 existing employees. In addition, they have requested that the Bangladesh Public Service Commission (BPSC) recruit 197 more inspectors, with 93 already selected and awaiting appointment following verification. This proactive approach aims to improve labour inspection and compliance with regulations in factories and establishments.

The Ministry of Labor and Employment (MoLE) increased its workforce at DIFE by hiring 97 new inspectors and is planning to hire 134 more. Additionally, 13 new positions are being created at NOHSTRI. DIFE's new offices in eight districts are now operational, and the Labour Inspection Management Application (LIMA) digital system is being used in all 31 district offices to streamline inspections and licence issuances. The ILO's latest project aims to enhance LIMA's efficiency, considering financial challenges related to the Ukraine war.

⁵⁸⁰ Ibid. p14

In the fiscal year 2022-23, the LIMA facilitated over 24,000 inspections and the issuance of numerous new and renewed licences across 31 DIFE district offices. Furthermore, during the first three months of 2023-24, LIMA assisted with over 11,000 inspections and the processing of numerous licences. The government has improved the skills of labour inspectors through extensive training, hosting 67 programmes and workshops over two years with a total attendance of 2,665 people.

The Department of Inspection for Factories and Establishments (DIFE) has identified nine key industries for targeted safety assessments, including garments and tanneries. They created annual inspection schedules based on local safety concerns and incident rates. Since December 2021, the DIFE has been using an Excel database to track labour inspections, with over 63,000 inspections conducted between July 2021 and June 2023. To combat labour violations, the DIFE is expanding its legal officer roles, with a proposed appointment in September 2023.

DIFE reformulated the inspection modalities for EPZs, and as of September 2023, 58 factories had been inspected, with most of them found to comply with the new rules⁵⁸¹.

3. ILO's Observation on Bangladesh NAP

The ILO Committee acknowledges the government's report on the progress made in implementing the road map of actions to address outstanding issues in the complaint pending under Article 26 of the ILO Constitution concerning a specific convention. The International Trade Union Confederation (ITUC) and the Trade Union Committee of International Labour Standards (TU-ILS) have highlighted legislative and practical challenges in applying the Convention. The Committee also acknowledges the government's response to these observations, as well as the input from the Bangladesh Employers' Federation (BEF) transmitted with the government's report. In their assessment of the progress of the Bangladesh NAP, the Committee recognises the 2022 amendment to the Bangladesh Labour Rules (BLR) and the adoption of the Bangladesh Export Processing Zones Labour Rules (EPZ Labour Rule). Furthermore, the Committee notes that an amendment to the Bangladesh Labour Act (BLA) was approved in November 2023 and was returned to Parliament by the President for further consideration. The Committee urges the Government to provide detailed information on the status of this matter.⁵⁸²

⁵⁸¹ Ibid. p16

⁵⁸² ILO (2023). *Observation (CEACR) - adopted 2023, published 112nd ILC session (2024) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Bangladesh (Ratification: 1972)*. [online] ILO. Available at:

In terms of anti-discrimination, the Committee expresses concern about the lack of effective investigations and penalties for anti-union activities and urges the government to train officials to handle complaints better. It also calls for sharing statistics on actions taken against these complaints and encourages the promotion of the use of an online database among workers.

The Committee requested that the government increase the fines for anti-union discrimination. It noted an amendment to Section 291(1) of the BLA, which raised the penalty for unfair labour practices and anti-union discrimination from 10,000 TK (approximately 120 USD) to 15,000 TK (136 USD). However, the Committee urged the government to review the relevant provisions of the BLA further to ensure that the fines for anti-union discrimination are sufficiently dissuasive.

The Committee requested that the government provide information on the outcome of 5,407 labour-related complaints in the ready-made garment sector and measures for anonymity. It encouraged the expansion of the helpline to other areas and sectors. The government stated that the helpline has been expanded and provided data on complaints received and solved. The Committee welcomed this but noted the lack of details on complaint outcomes and anonymity measures. It also encouraged the government to engage with social partners to improve the complaint procedure and raise awareness among workers. The helpline is expected to contribute to resolving labour complaints, including those related to anti-union practices.

The Committee has requested that workers in export-processing zones (EPZs) be better protected from anti-union bias. It has urged the government to provide detailed statistics on complaints of anti-union discrimination in EPZ. The government received a total of 7,192 calls through the helpline established in EPZs, none of which related to anti-union discrimination. The Committee emphasised the need for additional procedures to address anti-union discrimination and suggested that the government make these statistics easily accessible to workers' organisations. Furthermore, it emphasised the importance of amending the Bangladesh Export Processing Zones Labour Act (EPZ Labour Act) to provide adequate protection against anti-union discrimination. The government has been urged to provide insights on allegations of widespread anti-union practices, and the ITUC has been invited to provide relevant details to assist the authorities in addressing these denounced practices.

The committee found some ambiguities in the Bangladesh Labour Act (BLA) and the EPZ Labour Act. The committee has expressed concerns about the lack of legal safeguards against interference in the implementation of the BLA and EPZ Labour Acts. Although the government claims that the current legal framework provides adequate protection, the committee has noted that these provisions do not cover all of the prohibited acts listed in Article 2 of the Convention. As a result, the committee has urged the government to consult with relevant stakeholders in order to broaden the scope of protection against interference under both the BLA and the EPZ Labour Act. Furthermore, the committee is disappointed that Rule 202 of the Bangladesh Labour Rules (BLR) has not been significantly revised to address concerns about encroaching on the right to collective bargaining despite proposed changes. The committee anticipates that Rule 202 will be revised to ensure that it does not unreasonably restrict collective bargaining rights in future amendments to the BLR.

Furthermore, the Committee has requested that the government revise the BLA to establish a legal foundation for collective bargaining at the industry, sector, and national levels. Collective bargaining, according to the government, is mostly done at the enterprise or industry level, with some exceptions. Employers frequently fail to submit collective agreements, resulting in a lack of statistics; however, training programmes are being implemented to address this. Disputes arising from failed negotiations are referred to the DOL for resolution through tripartite negotiations. The DOL has been involved in 34 such demands, with 32 of them settled. The government has developed a road map to increase social partners' awareness and capacity for collective bargaining. Workers' organisations support the establishment of a legal framework for collective bargaining at the sector and national levels. The Committee requests that the government take the necessary steps, including legislative action, to ensure that collective bargaining is permitted and promoted at all levels, as well as to continue training employers to ensure compliance with the BLA.

The Committee requested that the government clarify the process for determining collective bargaining (CB) agents when no union reaches the required threshold. The government stated that if there are multiple unions in an establishment, they can either elect a collective bargaining agent or the Director General of Labour can hold a secret ballot to determine the agent. Additionally, the government mentioned that simplification of the determination process is being considered as part of the revision of the BLA. The Committee has urged the government to provide information on this and ensure that existing unions can negotiate on behalf of their members if no union reaches the required threshold.

The Committee has urged the government to provide comprehensive statistics on collective bargaining in EPZs and proposed amendments to Section 180 of the EPZ Labour Act. This amendment aims to establish an independent body responsible for determining collective bargaining agents. Additionally, the government has been called upon to clarify the implications of Section 117(2) and to implement measures that promote collective bargaining in EPZs. Concerns have been raised regarding the working conditions of EPZ workers, as well as the discretionary powers vested in the Inspector General and EPZ Wage Board in shaping outcomes and proceedings. The Committee underscores the significance of free and voluntary collective bargaining and urges the government to ensure that the EPZ Labour Rules do not restrict collective bargaining.

Finally, the Committee expressed hope for progress towards aligning collective bargaining legislation and practice with the Convention. The government has reported progress towards promoting effective conciliation and arbitration for alternative dispute resolution. However, the Committee observes that trade unions, particularly in the garment sector, face challenges, as evidenced by the low number of collective agreements signed and the low coverage of collective bargaining. The Committee requests that the government step up its efforts to bring legislation and practice in line with the Convention, as well as actively promote collective bargaining for balanced industrial relations. Additionally, the Committee expects the government to fully engage in addressing these issues and to consider the Committee's comments for the timely implementation of the road map and full compliance with the Convention.⁵⁸³

4. A New Era of Sustainability Disclosures: Understanding the CSRD Evolution for Bangladesh

The European Union plays a crucial role as the primary buyer and consumer market for Bangladesh's ready-made garments, and with that position comes a significant responsibility to its stakeholders. Engaging with these stakeholders can foster a more sustainable and ethical fashion industry that benefits everyone involved.

⁵⁸³ ILO (2023). *Observation (CEACR) - adopted 2023, published 112nd ILC session (2024) Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Bangladesh (Ratification: 1972)*. [online] ILO. Available at: https://webapps.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:4367682,en.

The EU's reporting framework has undergone a substantial transformation because of the Corporate Sustainability Reporting Directive (CSRD) (Directive EU 2022/2464).⁵⁸⁴

There has been an amendment to the CSRD, which encompasses the Accounting Directive (Directive 2013/34/EU)⁵⁸⁵ and the Transparency Directive (Directive 2004/109/EC) to incorporate more comprehensive sustainability disclosures. The Transparency Directive, which emphasises transparency obligations for companies listed on EU-regulated markets, has undergone improvements. The Audit Directive (Directive 2006/43/EC) and Regulation (EU) No 537/2014, which established the necessity for sustainability reporting to be subject to third-party assurance, have been revised to guarantee the reliability and accuracy of the information that is disclosed. The Audit Regulation guarantees that sustainability audits satisfy specific assurance standards by aligning audit-related requirements with the CSRD's expanded scope. The objective of these amendments is to establish a comprehensive framework for sustainability reporting that emphasises corporate accountability, environmental impacts and human rights considerations within global supply chains. They expand the directive's applicability to more companies, including non-EU entities operating within the EU market, and ensure alignment with international reporting standards (IRS).⁵⁸⁶

This directive is an important advance in promoting corporate accountability and ethical practices, especially in sectors like the global garment industry, where compliance with human rights and labour standards is essential. It functions as a legislative framework that safeguards the rights of labourers and promotes sustainable economic practices.⁵⁸⁷

This directive will have noteworthy implications for Bangladesh, which plays a vital role in the ready-made garment (RMG) industry. It will influence legislative efforts and economic strategies.

⁵⁸⁴ Europa.eu. (2022). *Directive - 2022/2464 - EN - CSRD Directive - EUR-Lex*. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2022/2464> [Accessed 11 Nov. 2024].

⁵⁸⁵ Europa.eu. (2024). *Directive - 2006/43 - EN - EUR-Lex*. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2006/43/oj> [Accessed 11 Dec. 2024].

⁵⁸⁶ Heinisch, O. (2024). Sustainability Reporting Obligations for EU and Non-EU Companies: The Corporate Sustainability Reporting Directive. *Corporate & Securities Law Blog*. Available at: <https://www.corporatesecuritieslawblog.com/2024/10/sustainability-reporting-obligations-for-eu-and-non-eu-companies-the-corporate-sustainability-reporting-directive/> [Accessed Oct. 2024].

⁵⁸⁷ The New EU Corporate Sustainability Reporting Directive: What Does It Mean For Non-EU Companies? (2024). *www.kslaw.com*. [online] 27 Jan. Available at: <https://www.kslaw.com/news-and-insights/the-new-eu-corporate-sustainability-reporting-directive-what-does-it-mean-for-non-eu-companies>. [Accessed Oct. 2024].

Legislative Effects

The CSRD requires Bangladesh to revise its labour laws and governance structures to align with international standards. The country has long faced challenges such as inadequate living wages, limited rights for workers to unionise, and poor enforcement of safety regulations—issues that have persisted in the garment sector. As the directive now demands that companies exporting to the EU submit comprehensive reports on their environmental, social, and governance (ESG) practices, these problems are increasingly hard to ignore. With a keen focus on human rights, including safe working conditions and fair pay, the CSRD directly addresses entrenched labour issues in Bangladesh. The EU's push for better ethical sourcing means that Bangladesh must strengthen its regulatory framework to remain competitive in one of its key export markets.

Economic Advancement and Regulatory Expenditures

From an economic standpoint, complying with the CSRD presents both challenges and opportunities. The RMG sector in Bangladesh relies heavily on low-wage labour but now faces rising costs associated with upgrading infrastructure, implementing digital reporting systems, and undergoing mandatory third-party audits as required by the directive. This can be especially tough for small and medium-sized enterprises (SMEs) that may not have the financial means to make the necessary adjustments. For larger companies, however, compliance could enhance their appeal as sustainable suppliers, opening doors to long-term partnerships with EU clients who are increasingly prioritising sustainability in their sourcing decisions.

Benefits of Sustainability

Despite these challenges, Bangladesh has a strong foundation to build on when it comes to sustainable manufacturing. The country boasts the largest number of LEED-certified green factories in the world, a testament to its commitment to sustainability. This aligns perfectly with the CSRD's focus on environmental accountability, making Bangladesh an attractive option for sustainable sourcing. Still, addressing broader sustainability concerns, like reducing reliance on fossil fuels and ensuring comprehensive environmental compliance, will be crucial.⁵⁸⁸

⁵⁸⁸ Heinisch, O. (2024). Sustainability Reporting Obligations for EU and Non-EU Companies: The Corporate Sustainability Reporting Directive. *Corporate & Securities Law Blog*. Available at:

Prospects for Cooperation

The directive also opens opportunities for collaboration between EU buyers and Bangladeshi producers. For instance, EU buyers can establish capacity-building programs that include training workshops on sustainable manufacturing practices, allowing producers in Bangladesh to enhance their operational efficiencies and reduce environmental impacts. Additionally, buyers could facilitate technology transfer by sharing advanced production techniques or eco-friendly materials that align with compliance standards, such as using water-based dyes instead of harmful chemicals.

Financial incentives could take the form of grants or co-investment in sustainable technologies, helping producers invest in greener machinery or better waste management systems. Furthermore, structured partnerships might include regular audits and feedback sessions, enabling continuous improvement in supply chain practices. Such collaborations not only help mitigate the risks of supply chain disruptions but also foster long-lasting business relationships, ensuring mutual benefits under the CSRD framework. By working together, both parties can better navigate regulatory changes while strengthening their competitive edge in the global market.

Prospect of Gender Equality

This Directive (EU) 2022/2464 emphasizes the importance of gender equality as a key element in improving workers' rights across global supply chains. This regulation requires thorough sustainability reporting based on the European Sustainability Reporting Standards (ESRS). Companies are now obligated to disclose information about gender-related labour issues, such as pay equity, the representation of women in leadership roles, and measures taken to prevent harassment in the workplace. This creates a strong strategy to address the deep-rooted gender inequalities present in industries like Bangladesh's garment sector, where women are a significant portion of the workforce but often lack a voice in decision-making and experience various forms of exploitation.

The directive aligns with international standards, particularly the UN Sustainable Development Goals (SDGs), which include Goal 5, focused on achieving gender equality. It encourages European buyers to work alongside suppliers in Bangladesh to implement practices like

<https://www.corporatesecuritieslawblog.com/2024/10/sustainability-reporting-obligations-for-eu-and-non-eu-companies-the-corporate-sustainability-reporting-directive/>. [Accessed Oct. 2024].

gender-sensitive complaint systems and initiatives that empower female workers. By fostering greater transparency and accountability, the Corporate Sustainability Reporting Directive ensures that gender equality is not just a regulatory requirement but also a competitive advantage for suppliers aiming to enter and remain in the European market.⁵⁸⁹

Ultimately, these strategies have the potential to significantly improve working conditions and enhance social mobility for women in Bangladesh, highlighting the connection between economic growth and gender-inclusive labour policies. The real impact, however, will hinge on how effectively European consumers and Bangladeshi suppliers can weave these standards into their everyday operations.⁵⁹⁰

5 EU Observation of Bangladesh's NAP

Bangladesh has greatly benefited from the Everything But Arms (EBA) agreement in terms of exports to the EU. The EBA preferences have played a crucial role in driving the country's impressive economic growth and social development in recent years. The majority of Bangladesh's exports to the EU, as well as globally, consist of apparel, both knitted and non-knitted garments, making up over 90% of total exports to the EU in 2022. This highlights Bangladesh's strong emphasis on ready-made garments (RMG), where it holds the position of the second-largest exporter. Bangladeshi exports to the EU receive the advantages of EBA preferences, with utilization rates consistently exceeding 95%.

Under the EBM agreement, the European Union consistently monitors the progress in the development of labour laws and labour rights protection in Bangladesh. The EU expresses its concerns regarding issues such as child labour, labour inspections, and the shutdown of factories that do not comply with health and safety standards. Following the establishment of the National Action Plan (NAP) on the Labor Sector, the EU diligently observes the advancements made in the NAP and provides feedback on the achievements and areas that require improvement.⁵⁹¹

In May 2022, the 10th EU-Bangladesh Joint Commission in Brussels emphasised the importance of respecting human rights, including labour rights, in accordance with

⁵⁸⁹ Ibid

⁵⁹⁰ Europa.eu. (2022). *Directive - 2022/2464 - EN - CSRD Directive - EUR-Lex*. [online] Available at: <https://eur-lex.europa.eu/eli/dir/2022/2464> [Accessed 11 Nov. 2024].

⁵⁹¹ EU (2023). Report on EU Enhanced Engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia and Myanmar Accompanying the document Joint Report to the European Parliament and the Council on the Generalised Scheme of Preferences covering the period 2020-2022. [online] pp.1–26. Available at: <https://data.consilium.europa.eu/doc/document/ST-15996-2023-ADD-2/en/pdf>. [Accessed 2023]

international conventions. Democracy, the rule of law, and free elections were among the topics discussed. The EU expressed concern about human rights violations, freedom of expression, and the need for legislation to be consistent with international human rights norms. Promoting and protecting all human rights was emphasised as a means of ensuring stability, economic growth, and development. The EU proposed increased cooperation for Bangladesh's next UN Human Rights Council Universal Periodic Review in 2023.⁵⁹²

The European Parliament's Committee on International Trade (INTA) expressed satisfaction in April 2022 with the publication of the National Action Plan (NAP) in 2021. However, it reiterated deep concerns about the labour rights situation. The Committee declared that it would closely monitor the NAP's implementation. The INTA Committee then visited Bangladesh in July 2022 to assess the progress of labour reforms. The first EU-Bangladesh Political Dialogue was held on November 24, 2022, in Dhaka, emphasising the importance of timely and comprehensive implementation of the NAP in the Labour Sector. Both parties emphasised their common values of democracy, fundamental liberties, the rule of law, inclusivity, and human rights.⁵⁹³

Later, the ILO's governing body held its 349th session on November 9, 2023, EU provided its statement. The European Union appreciates Bangladesh's progress report on the National Action Plan and urges faster implementation to comply with the International Labour Organization (ILO) Conventions. The EU recognizes Bangladesh's achievements but stresses the importance of fulfilling all commitments promptly. Concerns are raised about obstacles faced by workers in joining unions, highlighting the need for Bangladesh to support unions' establishment and operation without hindrance.⁵⁹⁴ Workers must discuss wages and working conditions openly without fear of reprisal. The EU is ready to help Bangladesh address concerns in the Article 26 complaint and calls for proactive steps to improve the situation.⁵⁹⁵

⁵⁹² EU (2022). EU and Bangladesh hold 10th Joint Commission meeting | EEAS. [online] 22 May. Available at: https://www.eeas.europa.eu/eeas/eu-and-bangladesh-hold-10th-joint-commission-meeting_en. [Accessed 19 Mar. 2023].

⁵⁹³ EU (2023). Report on EU Enhanced Engagement with three Everything But Arms beneficiary countries: Bangladesh, Cambodia, and Myanmar Accompanying the document Joint Report to the European Parliament and the Council on the Generalised Scheme of Preferences covering the period 2020-2022. [online] pp.1–26. Available at: <https://data.consilium.europa.eu/doc/document/ST-15996-2023-ADD-2/en/pdf>.

⁵⁹⁴ Kashem, A. (2023). EU wants Bangladesh to act on labour rights as pledged. [online] The Business Standard. Available at: <https://www.tbsnews.net/node/749414>. [Accessed 3 Jan. 2024].

⁵⁹⁵ ILO 349GB - Report by the Government of Bangladesh on progress made on the implementation of the road map taken to address all outstanding issues mentioned in the Article 26 complaint - EU Statement | EEAS. (2023). [www.eeas.europa.eu](https://www.eeas.europa.eu/delegations/un-geneva/ilo-349gb-report-government-bangladesh-progress-made-implementation-road-map-taken-address-all_en?s=62). [online] 23 Nov. Available at: https://www.eeas.europa.eu/delegations/un-geneva/ilo-349gb-report-government-bangladesh-progress-made-implementation-road-map-taken-address-all_en?s=62 [Accessed 19 Dec. 2023].

6. Importance of Labour Laws Reform for Bangladesh

Bangladesh is set to leave the group of Least Developed Countries by 2026, which will have an impact on its trade advantages, particularly duty-free and quota-free access to EU and UK markets. To prepare for this change, Bangladesh must negotiate Free Trade Agreements, meet the EU's sustainability criteria, and adapt its textile and garment sector to meet the EU's GSP Plus standards. Strategies must be developed to maintain competitiveness and meet global obligations, such as the EU Green Deal and Circular Economy frameworks. In order to comply with GSP requirements, it is necessary to make decisions regarding regional cumulation rules and imports from countries with EU Free Trade Agreements. Bangladesh's substantial presence in the EU market may put its GSP benefits at risk unless negotiations result in changes⁵⁹⁶.

Gaining GSP Plus status will allow Bangladesh to maintain lower tariffs on exports to the EU, which is critical for its trade following its exit from the least developed country category. This advantage significantly boosts Bangladesh's economy by increasing the competitiveness of its goods in the EU market and providing ongoing support for its export sector. Bangladesh's labour laws must be updated to meet international standards and qualify for GSP Plus status with the EU after 2026. The country should transparently amend its Labour Act, with input from all relevant stakeholders. Despite currently having duty-free exports to the EU, Bangladesh must raise its labour and human rights standards to maintain this privilege as it transitions to a developing country.⁵⁹⁷

The EPZ Labour Act must also be amended so that Bangladesh receives US FDI (Foreign Direct Investment) and trade benefits from the EU's GSP plus preferential regime. According to a 2016 European Commission report, Bangladesh's Export Processing Zones (EPZs), which employ 400,000 workers in garment and footwear production, have made trade unions illegal under the EPZ Labour Act 2019. This rule violates ILO Conventions No. 87 and 98. The US Department of State's 2022 report emphasises the need to reform the EPZ Labour Act to allow Trade Unions in accordance with international standards. The Act differs from the Bangladesh Labour (Amendment) Act 2018, particularly in terms of free association and collective bargaining. The law is similar to the EPZ Workers Welfare Association and Industrial Relations Act of 2010, which the ILO criticised for failing to meet international standards. The

⁵⁹⁶ Uddin, M. (2021). Bangladesh needs a clear strategy for GSP+. [online] The Daily Star. Available at: <https://www.thedailystar.net/opinion/rmg-notes/news/bangladesh-needs-clear-strategy-gsp-2093889>.

⁵⁹⁷ 'Bangladesh should reform labour laws for EU's GSP Plus regime'. (2023). *The Daily Star*. [online] 4 Oct. Available at: <https://www.thedailystar.net/business/news/bangladesh-should-reform-labour-laws-eus-gsp-plus-regime-3434656>. [Accessed 20 Nov. 2023].

EPZ Labour Act of 2019 permits excessive authority intervention in the formation of the Workers' Welfare Association, preventing it from acting as a Collective Bargaining Agent. The Executive Chairman has significant power in the registration and formation process of the WWA, with the ability to cancel registration at any time. This reform and implementation are now essential for the Bangladesh RMG industry to overcome new GSP-plus challenges.⁵⁹⁸

⁵⁹⁸ Rafah, J. (2022). *Impact of the EPZ Labour Act 2019 on the US FDI*. [online] The Daily Star. Available at: <https://www.thedailystar.net/law-our-rights/news/impact-the-epz-labour-act-2019-the-us-fdi-3120691>. [Accessed 20 Nov. 2023].

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