

## Implementation of Labor Rights: A Study on Construction Workers of Bangladesh

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**Abstract:** The construction sector is an important sector and contributes significantly to the national development of Bangladesh. Despite various measures, accidents still occur at construction sites and this area poses a higher risk of construction accidents. That's why a construction site can be considered as a dangerous zone for workers and the public. Due to a range of accidents occurring on these sites, the contractor will usually have to pay the cost related to accidents in the form of higher insurance premiums. But this compensation is not sufficient for the labor. Another thing is that Personal Protective Equipment (PPE) which is one of the important means to protect workers from hazards in the workplace is also absent in work sites. This study is formulated to find out the level of knowledge and awareness of construction workers on PPE usage and about their rights. It was found in this study that the level of awareness and knowledge among workers on the proper use of PPE is moderate. Construction site accidents can be further reduced with proper implementation of PPE voluntarily by all workers.

**Keywords:** *Construction workers; PPE; safety rules.*

**Introduction:** Bangladesh wants to become a higher middle-income country by 2031 [1] with a current population of 167,767,559 [2] million people. People from every corner are playing a vital role. The construction industry is also included in this respect. We have a huge and cheap workforce in the labor force. In Bangladesh, the total of no labor was reported at 69816252 in 2021[3], according to the World Bank. It is growing rapidly in Bangladesh. Bangladesh Labor Force Participation Rate increased to 57.0 % in Dec 2021, compared with 56.7 % in 2022 [4]. And 3.7 million workers have been engaged in construction work [5]. There are more than a thousand companies in Bangladesh that are involved in the construction business. But our safety management issues are characterized at a very poor rate. From the literature review of this study, the more than 2021 survey finds over 1,000 deaths at work in Bangladesh [6]. In Bangladesh, more than 40% of workers die due to the fall of heights. In the case of an accident, the construction industry could have been in the highest position. The number of construction worker deaths in 2020 was 1,008 [7] and the construction industry is placed in the highest rank. A recent case has been filed for causing the deaths of five persons by negligence after a segment of a box girder of the Bus Rapid Transit (BRT) project fell from a crane on a car in Dhaka's Uttara area on August 15, 2022, which is grave negligence from the part of the construction authority. A safe and constructive working environment decreases the risks of heavy accidents at work, and sickness and lower costs for the total construction.

Worker means any person, including an apprentice employed in any establishment or industry, either directly or through a contractor, to carry out any skilled, unqualified, manual, technical, commercially promotional, or clerical hire or reward work, whether the terms of employment are expressed or implied, but does not include a person employed primarily in a managerial or a clerical work [8]. This worker's fight for decent wages has been an ongoing issue in Bangladesh. Their working environment, range of wages, leave provisions, termination rules and other benefits are not ensured yet. For the last few years, construction and other workers have been fighting for their rights, but this protest is always turning into violence.

In December 2016, worker protests for decent wages [9] were met with violent crackdowns by national and industrial police forces. Despite the repression, workers have continued to mobilize and lobby industry and government for substantial increases to, according to the Bangladesh Labor Act 2006, the country's minimum wage.

**Research Methodology:** To visualize the current scenario of construction rights, a broad literature review was conducted from published and unpublished documents, newspapers, internet, journals, articles, reports, newsletters, and OSHA (Bangladesh Occupational Safety, Health and Environment Foundation) statistics. Existing rules and regulations about construction safety in Bangladesh were also studied. At the same time, the suggestions were taken from different stakeholders related to the construction industry so that the rules and regulations should be implemented on-site properly.

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**Article history:**

*Received 14 May, 2022*

*Received in revised form 10 June, 2022*

*Accepted 14 October, 2022*

*Available online 02 November, 2022*

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## **Provisions and Present Scenario of Construction Workers:**

### **Legal Framework:**

#### **1.1. International Commitment:**

##### **i. International Covenant on Economic, Social and Cultural Rights (ICESCR):**

Article 6 of the ICESCR therefore establishes the right to freely choose or accept work. Here, the term "accepted work" refers to wage employment, whereas "chosen work" may be seen as self-employment. In article 7, the right of everyone to the enjoyment of just and favorable conditions of work, in particular, the right to safe working conditions for the collective dimension of the right to work is addressed in article 8[10]

Though these rights are ensured in the domestic Acts also, the implementation of those rights is poor. The Govt. has failed to ensure the rights of the workers in various sectors, including the construction sector. In the construction sector, the workers don't have any safety measures and the right to choose between options.

##### **ii. Universal Declaration on Human Rights (UDHR):**

The Universal Declaration on Human Rights (UDHR) of 1948 guarantees some labor rights, such as the right to reasonable limitation of working hours, Article 24- the right to equal pay for equal work, just and favorable remuneration 23(2) & (3) [11] Several countries have enacted their labor laws in the light of these legal provisions. Our country is also directly admitting the social recognition of the worker as Articles 25(1) of the UDHR- the right to a standard of living and well-being for everyone and mentions that all people have the right to have adequate food, clothing, housing, and medical care and necessary social services. [12].

#### **1.2. National Laws:**

##### **i. Constitutional Framework:**

The Constitution of the People's Republic of Bangladesh possesses several rudimentary rights for the working masses and laborers [13].

**Article 14**, requires the State to emancipate peasants and workers from all forms of exploitation.

**Article 15**, holds the State responsible to ensure the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work, and reasonable rest, recreation, and leisure.

**Article 20 (1)**, recognizes work as a right and requires that "everyone shall be paid for work on the basis of the principle from each according to his abilities, to each according to his work."

There are also some of the fundamental rights guaranteed in Chapter III, especially relevant to workers' rights, including:

**Article 34**, which prohibits all forms of forced labor and makes it a punishable offense; and

**Article 38**, which guarantees the right to freedom of association and to form trade unions.

##### **ii. Other Laws:**

**Bangladesh Labor Act, 2006 (BLA):** It is the primary law for the security and safety of workers in Bangladesh. This Act applies to all establishments. A construction site is one of them. This Labor Act has provisions connected to working hours and other allied provisions relating to overtime in Sections number-100 to 102 with the overtime hours and leaves provisions [8] In our country, The BLA 2006 provides necessary footing for the safety purpose of workers. This Act requires employers to provide basic safety measures which have been stated under Sections 61-78.

This Act provides a general obligation to employers by stipulating that no building, wall, tunnel, road, gallery, stairway, or other structure, shall be constructed, situated, or maintained in any factory in such manner that may cause risk of physical injuries (Section.61). Each establishment has to be equipped with fire alarms and fire exits and at least one alternative stairway connected to each floor as a means of safe exit (Section.62). It is obligatory to the employers to fence the machinery. All shafts, clutches, driving straps, every set screw, revolving shaft, spindle wheel or pinion, and all spurs must be relied on fenced (Section.63). To ensure workplace safety, the Act instructs employees to regularly examine the machinery which is in motion; self-acting machines, cranes, hoists, lifts and other revolving machinery and operation of this machinery must be conducted by trained persons with proper precautions and protection. Section 75 provides provisions regarding the safety of the eyes of the workers. According to chapter VII, workers should be notified that things are hazardous and harmful to their health. Women workers are prohibited from working in motion on any part of the machinery near the dangerous machine and underground and underwater.

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**Public Interest Litigations:** Most of the PILs are related to garment factories; a few are related to construction workers. One of the mentionable references is BLAST and another vs. Bangladesh and others ('Building Construction Code and Worker Safety' Case Writ Petition No. 718 of 2008).

Bangladesh Legal Aid Service Trust (BLAST), along with the Occupational Safety Health and Environment Trust (OSHE), filed a writ petition challenging the inaction and omission on the part of the respondents of compliance with legal provisions regarding the safety and security of construction workers as provided in the Bangladesh National Building Construction Code, 2006, leading to serious injuries and deaths of construction workers in the workplace. National newspapers reported 50 deaths of construction workers between January and December of 2007 [14] as a result of falling from heights, having contact with electrical cables, or being crushed following the collapse of buildings, trenches, or walls, and the collapse of buildings during demolition. The petitioners claimed that the concerned authority's failure to give effect to the provisions of the 2006 Code had endangered the security of construction workers, exposing them to the risk of severe injuries and death, in violation of their right to life as guaranteed by Article 32 of the Constitution. The High Court directed the Government to explain within four weeks why its failure to date to establish a government agency as provided for under the Bangladesh National Building Construction Code, 2006 for enforcement of the law, does not constitute a breach of its statutory and constitutional duties. The Court also directed the Government to submit a statement to the Court setting out what steps it has taken to security and the safety of construction workers since the Code became law in November 2006. Right now, the hearing is pending.

**Analysis of Law and Current Condition of Construction Workers:** International Financial Institution-funded construction projects in Bangladesh are required to demonstrate proper respect for labor standards and Factories and Establishments (DIFE) is entrusted with the responsibility of implementing the Bangladesh Labor Act (BLA) 2006. (BNBC) 2006, establishes the minimum standards for design and construction for all buildings in Bangladesh and has provisions on safe construction practices and labor welfare. Despite such laws existing in Bangladesh, monitoring and enforcing safety in construction is still a big challenge due to confusion regarding enforcement authority, shortage of manpower in enforcing agencies, and lack of national safety certification and licensing program for engineers, contractors, and workers. Workers in this sector are mostly unorganized and collective efforts are required to promote a safety culture in this area. The Annual Workplace Safety Report 2020 prepared by Bangladesh Occupational Safety, Health and Environment Foundation (OSHE) disclosed 9 workplace fatal injuries and a total, of 74 workers got serious injuries and 1674 got minor injuries in the construction sector in 2020, which is one of the largest figures for workplace injuries. A total of 92,704 man-days were lost in 2020[15]. A total of 36 chemical exposures were identified in the construction sector. 4 workers got fatal injuries by failing from height while a total of 8 workers got fatal injuries by failing from height in 2020[15]. The Workplace Safety and Health Report 2021 by the Ministry of manpower of Bangladesh found that a total of 139 people died from construction injuries between 2014 and 2021. This will mean victims' families will never get any compensation from employers, as the existing labor act is only applicable to the formal sector.

Following is the discussion on current acts.

#### **The Bangladesh National Building Code (BNBC) 2006:**

- i. The laborer is working without any fall protective tools in most cases. According to the BNBC-2006, the slab must be guarded against falling. Not only the slab but also any opening in walls, slabs as well as the edge of the sea, and staircases must be guarded against falling. But in the actual scenario during construction, there are no satisfactory safety regulations. So, the fatalities are increasing day by day.
- ii. Construction laborers in our country were working without hand gloves, safety boots, etc. But According to the BNBC-2006, personal protective equipment such as safety boots, hand gloves, helmets, safety jackets, etc. are essential during working in risky conditions. Laborers' labor was not provided with safety boots, helmets, gloves, and other protective equipment by their contractors, but the contractors are the main responsible person to ensure the safety of construction workers. As a result, the workers are facing the loss of organs, skin diseases, and other bodies. The workers are the only earning members of their family, their injury turns their family into more poverty.

- iii. Workers while painting and cutting tiles do not use any eye protective equipment, gloves, and respiratory protection. Despite having the regulation in the Act for eye protection of labor, the contractor was assumed to violate the rules. Hazards include flying objects such as chips, and fragments; particles, sand, and dirt are typically the result of tasks like chipping, grinding, machining, masonry work, woodworking, sawing, drilling, chiseling, powered fastening, riveting, and sanding. These small objects or sparks can cause serious eye damage such as punctures, abrasions, and contusions. They are in a state to permanently lose their vision.
- iv. In all stairs and lifts, the protection again calling must be needed according to the BNBC-2006. But the observation resulted that there was no fall protective measurement during construction. Most of the time the safety belts were provided by the contractor, but workers were not using them during lift installation. As a result, workers and other related person in construction may experience a serious accident and sometimes they are in the situation of losing their life.
- v. During welding work workers are not conscious of skin protection, or eye protection. The sparking resulting from welding may harm the skin which may lead to skin cancer. As the intensity of light was very high, the eye might be damaged due to the lack of safety. The uncovered and unprotected hazardous materials with no safety measure is the most crucial potential factor influencing accidents fatalities in results.
- vi. The electrical wires were kept randomly, and the coil spread around the spark which was uncovered which might have caused the electrocution. According to a government study conducted in 2016 that interviewed some 330,000 people, it was found that 7,163 people were permanently disabled. The number of people killed stood at 9,210 and some 2,70,622 others were injured due to electric shocks [16]. As a result, the proximity of happening fatalities is increasing day by day. Sometimes workers do not get any proper treatment if an injury happens, and workers must bear their treatment costs on their own. It was told by the workers that no compensations were being provided to workers for injury and loss of life [17].

**Provisions of International Labor Organization (ILO):** The International Labor Organization has fixed a standard in the provisions regarding a working hour. Daily working hour limits are a feature of Conventions Nos. 1 and 30, both of which provide for an 8-hour limit on normal hours [18]. Convention No. 47[19] and Recommendation No. 116[20] do not provide for daily limits, the 40-hour week is considered an adequate guarantee of a working day of 8 hours or less. Under international standards, daily hours can be averaged within the 48-hour week.

**Bangladesh Labor Act (BLA) 2006:** The Labor Act, 2006: as per Section 100, an 8-hour day is the daily work limit, but it may not exceed 10-hour day subject to the satisfaction of Section 108.

The Act does not directly applicable to the construction sector, though the provisions are indirectly applied to them. If any employers or institution fails to follow the guidelines stated in the Act, aggrieved workers can lodge complaints to the Labor Court. But there are only seven labor courts in Bangladesh; three are based in Dhaka, two in Chittagong, one in Rajshahi, and one in Khulna. In addition, there is only one Labor Appellate Court based in Dhaka.

**Finding the drawbacks of present laws:** Though we have laws regarding construction workers, these are not implemented accordingly. That's why our construction workers are always at stake. The situation will not change if the laws are not amended. Following is the loophole of current laws which need immediate alteration.

#### **Weaknesses of BLA 2006:**

- i. The Act does not apply to all types of workers. It excludes workers in informal sectors such as domestic workers, and workers involved in loading and unloading, and cutting mud. And that's why they are excluded from receiving compensation and other benefits.
- ii. Inadequate Numbers of Inspectors
- iii. Lack of Training program
- iv. Insufficient labor courts.
- v. Poor compensation rate.
- vi. Employers are not bound to follow the safety instruction and amount of compensation when any accident occurs. So, the workers remain beyond the legal protection under the BLA 2006 [21]

#### **Weakness of Bangladesh National Building Code 2006:**

- i. This Act requires "the owner of the property" under construction to comply with the obligations in the Code. BNBC only provides that violation of the Code will be an offense and the authority shall take legal action. However, it prescribes no procedure for the institution of legal proceedings, which needs to be addressed. Different types of building construction have been broadly classified in this Code.
- ii. In Bangladesh, in factories or construction sites, workers are not employed directly by the 'occupier' of the premises, but by labor contractors who have no control at all over the establishment where their employees are working. Requiring labor contractors to provide adequate ventilation or appropriate fire escapes or to ensure that there are guards on the machine is irrelevant [22].
- iii. The enforcement body under this Act is poor.

- iv. This law is not proper and left out the planning aspects of development
- v. Any kind of Environmental issues are not included in this Act.

**Some proposed recommendations to improve this situation:**

**Need to emphasize Personal Protective Equipment (PPE):** Personal protective equipment is one of the important measures to safeguard workers from exposure to occupational hazards. It gives protection to the person from any hazard in the workplace. It includes Face Mask, Goggle, Helmet, Gloves, Boot, Ear Plugs, Protective clothing, Belts, etc. The workers need to determine the appropriate PPE for each hazard and to train them on when and how to use PPE. Additionally, there are lots of different situations and in each situation, workers need a different kind of PPE.

Eight (8) steps of the PPE Guideline are recommended which should include the following matters: [23]

1. Evaluate exposure to the risk of accidents,
2. Assess of other controls, establish performance characteristics required,
3. Determine the barrier of ergonomics, evaluate the PPE requirements based on the work environment,
4. Selecting the PPE equipment based on hazard, quality, and effective cost, provide training, then.
5. Surveillance of the PPE application.
6. The physical and psychological effects of PPE usage.
7. Perception of younger age in affecting the use of PPE.
8. Lack of enforcement and safety training by employers.

**Other recommendations:**

1. Immediate change need in the provision related to accident compensation clauses under Bangladesh Labor Act (2006)
2. Deaths from electrocution in factories and whilst working outside factories, excavating, collecting stones, deaths from falling heights outside of construction sites, etc. are not covered by the BLA 2006 or the BNBC. Provision should be inserted in the Acts.
3. Ensure strong legal enforcement on mandatory and visible use of Personal Protective Equipment (PPE) by all workers at construction sites i.e., helmets, safety boots, safety belts, safety jackets, steel structure scaffold, guards, safety signs, and training of workers by principal contractor/company initiatives.
4. Provide Government of Bangladesh guidance to construction companies to set up core safety principles, safety committees, and programs at the company to site level.
5. Formalize all the workers according to skill/occupation wise (i.e. general construction helper, skilled mason, painter, etc.) through a registration process and introduce legal probation for obtaining work license by all workers from appropriate government authority.
6. More capacity building of the trade unions to effectively and united work on health and safety rights issues for their members and non-members.
7. To ensure the health and safety of workers, suitable programs should be provided by employers and contractors that are consistent with national Laws and Regulations. This includes maintaining a workplace that has minimal risks and accidents that can result in injury or death. To ensure safety guidelines a competent person must be selected to inspect the construction project site at suitable intervals
8. Employers must assess the health and safety risks to which employees and others are exposed on construction sites. They need to do a risk assessment to find out about the risks, and to put sensible measures in place to control them since managing health and safety is different from managing any other aspect of construction.
9. Contractors must keep accident registers at sites and make records of all kinds of accidents from minor bruises to major and fatal accidents and submit reports to the Directorate of Occupational Health and safety services. Health and safety induction training must be given to all employees when they start to work, which should cover basics such as first aid and fire safety. If risks change, refresher training when skills are not frequently used, training must also be provided.
10. When the bid package is prepared, contractors should make provisions for construction safety. To compete with other bidders and to avoid a monetary loss, the provision for safety and health must be made competitive with the aim.
11. Site supervisory staff should be sensitized and should share knowledge with co-workers regarding Occupational Health and Safety. Safety officers must be incorporated to make rules, warning signs, and other measures governing the sites.
12. Before commencement of a project the workers have the right to proper information regarding the plan and their safety at a construction site. This information should be presented in such a language that they can understand.
13. Workers must be provided with personal protective equipment properly according to the direction of their employer or the person in control of the site. They should take care of the equipment, not misuse them and report any defects and problems to the supervisors.
14. It must be ensured by the Directorate of Occupational Health and Safety services that the construction sites are inspected regularly for health and construction safety as provided in OSHA.
15. Contractors should be compelled with the provisions of law and shall make a feasible working environment.
16. Healthy and safe construction sites should be made from their rightful parts.
17. Construction workers should have the right to pension and gratuity.

**Conclusion:** Though the safety and security of construction workers in the workplace have become a global as well as a national concern still Bangladesh is facing some issues in the implementation of the security of construction workers because of having poor trade union systems and effective performance of legal provisions. Most of the filed PIL or writ petitions are pending. High casualty rate and low safety situation during the construction and lack of legal enforcement by a concerned government department are responsible for the repeated suffering of the worker. The main aim of this paper is to visualize the situation and take some immediate steps regarding these situations and build a bridge amongst the lawmakers, workers, and employers. That will help to set an organized mechanism ensuring social security for construction workers which is a time need.

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