

**"A Study on the Women Workers'
Status in Garments Industries in
Bangladesh: Impact and Implications
of Labour Laws"**



M.Phil Researcher: A.B.M Siddique

M.Phil Registration Number: 399 , Session:2003-2004

Department of Management Information Systems (MIS)

University of Dhaka.

December, 2010

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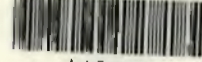
“A Study on the Women Workers’ Status in Garments Industries in Bangladesh: Impact and Implications of Labour Laws”

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Certified that **Mr.A.B.M Siddique** bearing **M.Phil** registration number 399 session: 2003-2004, student of the **Department of Management Information Systems (MIS)**, University of Dhaka has made necessary modifications and amendments of the thesis paper as per advices of the two examiners and complied with the regulations of the **M.Phil Examination** in resubmitting this thesis titled **“A Study on the Women Workers’ Status in Garments Industries in Bangladesh: Impact and Implications of Labour Laws.”**

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08/12/10

(Mohammad Moqbul Hossain Bhuiyan)

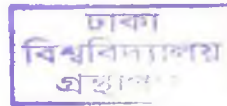
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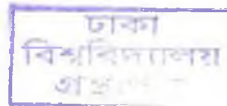
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As garments sector provide highest opportunity of employment for women, the existence of women workers in garments industry is a significant aspect of Bangladesh economy.

In 1974, the rate of female labour force in all industries in Bangladesh was estimated to be 4 percent only. Recently this percentage increased considerably, especially in Garments Industry. In Garments sector, about 80 percent workers are women. Although perceptions about women's apparent dependence continue in different ways in Bangladesh, the political and economic scenario have undergone a significant transformation in recent times. The impact of women's entry into industrial employment has added a new dimension to Bangladesh economy. In Bangladesh, where women's traditional place is in the home, the emergence of women factory workers signifies a major shift in normative ideology and practice. While only a generation ago industrial employment for women was unthinkable and socially unacceptable, the present position of women workers witnesses a departure from stereotypical underpinnings of Bangladeshi womanhood. Industrial employment of women has lent them a visibility and independence that they lacked so far. Women have renegotiated their role from passive dependents to active earners for their families. Their power to bargain has increased manifold as more and more women are controlling their own destinies as independent bread winners of the family.

The objectives of the present study were to examine and assess the situation of Women Workers and explore the extent to which they have access to equal* opportunities in their work places in terms of various rights envisaged in the Labour Laws of the country. The broad objectives were realized by testing and analyzing perceptions, knowledge and attitude of selected Women Workers, Trade Union Leaders and Employers in respect of existing Labour Laws of the country. The study followed a mixed strategy i.e. both qualitative and quantitative methods of data collection. While quantitative data are necessary to determine the prevalence of phenomenon, it is the qualitative study that reveals the complexities.

The field investigation comprised of an opinion survey to test the perception, awareness and attitude of workers, union leaders and employers about various aspects of Labour Laws with regard to their application and compliance.

Primary data was collected on the basis of structured questionnaires, as opposed to the method of observation. This process facilitated the framing of table, which demonstrates quantified direct responses. The respondents were chosen on the basis of "Systematic Sampling" technique. Three sets of questionnaires were framed for

the three groups of respondents, i.e. Workers, Trade Union Leaders and Employers. Although, three sets of questionnaires were constructed, the content of the questions in all the three sets remained more or less the same in order to assess the differences in their perception, opinion, awareness and attitude about the application of Labour Laws. At the beginning of my field research, I planned to bring 143 garments factories for interview in greater Dhaka Districts and 50 garments factories in Chittagong District. But when I interviewed 10 factories I found that the responses were almost same from the workers (male and female workers) and from the owners of the factories. For that reason, I reduced sample size to 70 factories (50 factories from Dhaka District and 20 factories from Chittagong District). The choice of such sample size was not arbitrary but based on the limitation of the tenure of field research and in view of the objectives of the study. Dhaka District and Chittagong District were selected as the location for the study.

The Labour Laws in Bangladesh apply to the formal sector of employment and contain parameters defining rights and entitlements for all workers. Accordingly, the Labour Laws contain a whole range of provisions that regulate employment conditions and aspects of employer- employee's relationships. Existing Labour Laws are further supplemented by ILO conventions granting workers with rights and entitlements. It is perceived that many of the Labour Laws in force essentially contain provisions that are commensurate with relevant International Labour Organisation (ILO) conventions that have been agreed in principle by the Bangladesh Government which need to be implemented urgently.

The present study has drawn upon perceptions of Women Workers, Employers and Trade Union Leaders on the application and compliance of Labour Laws. It has also investigated their attitude regarding Labour Laws and their contents. It has further exposed the level of their awareness with regard to specific provisions of Labour Laws that affect workers' rights, benefits and entitlements.

The responses of Women Workers, Employers, and Trade Union Leaders in each case varied significantly. This indicates that the various parameters of Labour Laws affect different categories of respondent in different ways. While the hierarchy between Employers and Workers, Employers and Trade Union Leaders and Trade Union Leaders and Workers are quite obvious, the interplay of their roles have a far reaching impact on the application of Labour Laws and the enjoyment of rights by workers.

It is important to recognize that power relations play a crucial part in designing such roles. Thus, for example amongst workers, those who are Trade Union Leaders, enjoy a greater degree of autonomy and awareness about their rights and entitlements resulting in greater enforcement of the same.

Chapter-1

Introduction:

Ready-made Garments Industry is a growing sector in Bangladesh economy. About 2.1 million people are directly employed in this sector and out of this 2.1 million workers, 80% workers are women. As this sector has become the largest sector of employment, employers and government need to give proper attention to this vital sector. But unfortunately this sector has become a problematic sector due to labour unrest. Labour Unrest is a common phenomenon of this sector. Under these circumstances, stakeholders (Employers, Workers, Government etc.) have become worried about the existing problem of this sector. Employers are complaining that local and foreign conspirators are involved with some destructive activities. This type of allegation may be true but that must be supported by the neutral in-depth investigation. It is learnt that, a few empirical research work were done before to find out the reasons of existing Labour Unrest in this sector. As a result, Labour Unrest is happening repeatedly in this sector which caused huge loss to the national economy. This study is an endeavour to unveil the causes of labour unrest through analysing the women worker's status in this sector. It is expected that, this empirical research findings and suggestions will give direction to the policy makers to solve out the existing Labour Unrest and hence will help to restore peaceful working environment in this vital sector of the economy.

1.1)Background of the Study

Garments Industry is one of the major foreign currency earning sectors in Bangladesh. The contribution of ready-made garments in our GDP is about 25% (approx) and about 76% foreign currency is coming from this sector. This Garments Sector is the highest employment generating sector in Bangladesh. About 2.1 million workers are working in this sector. Out of 2.1 million garments workers, about 80% workers are women. Bangladesh has to give appropriate attention to this vital sector for the sake of survival. Multi-Fibre Arrangement (MFA) has already been phased out. As a result, a big challenge has come to Bangladesh apparel market scenario. In order to adjust with this transitional period, Bangladesh has to ensure a sustainable infrastructure in ready-made garments industry.

Ready-made garments sectors are one of the major employment generators in our economy. At present, Bangladesh has to get export order by competing with her rivals like Sri Lanka, India, and Pakistan etc. So, in order to ensure competitive edge, Bangladesh has to ensure quality of the product and compliance of Labour Laws as per the demand of international buyers and International Labour Organization (ILO).

Though mostly illiterate women are the major workforce in this sector in Bangladesh and subject to oppressions and exploitations by the employers. Hence they are quite ignorant about existing Labour Laws of the country.

So, this study will try to examine and find out the relative disadvantage of women workers in their work place and to look for remedial strategies within the purview of existing Labour Laws of Bangladesh.

1.2 Rationale of the study.

Most of the studies on women workers in Bangladesh have basically tried to explain women's relative disadvantages in the labour market from socio-economic and cultural perspective. It is known that no extensive study was conducted before on the impact of women workers' status in garments industries in Bangladesh from the socio-economic and legal viewpoint.

In these circumstances, in -depth empirical research on the waged employment of women workers in export oriented garments industries is necessary and vital to economy. In this regard, it is required to unveil the various forms of exploitation of women industrial workers.

So this research will also investigate the reasons of Labour Unrest and its remedial measures in the light of existing Labour Laws of the country.

1.3) Objectives of Study

The study has the following objectives:

- i) To examine and assess the status of women workers in garments industry in Bangladesh.
- ii) To examine the extent, to which Labour Laws protect the rights of women garments workers with regard to wages, leave (Causal leave, Medical leave, maternity etc) and congenial working environment.
- iii) To examine existing Labour Management Relations and the ways they affect women workers in garments industries in Bangladesh.
- iv) To examine whether women workers have access to "Trade Union" activities and decision making role in garments industry in Bangladesh.
- v) To recommend for resolving the present labour unrest in garments industry in Bangladesh.

1.4) Hypotheses:

Hypotheses are very much important for assessing and analysing research objectives. There are two types of hypotheses which are explained below:

i) Null Hypothesis (Ho): There is no relationship between Labour Laws application and the status of the Women Workers in Garments Industries in Bangladesh.

ii) Alternative Hypothesis (Ha): There is a positive relationship between Labour Laws application and the status of Women Workers in Garments Industries in Bangladesh.

1.5)Methods of study

i) Sample size and Population.

It is known that standard of women workers' status is interlinked with various forces and factors like religion, socio-economic, cultural and politics which directly or indirectly influence women workers of the garments industry. During the brief explorative research, ten garments factories were selected for evaluating the present situation of women workers status in garments industry in Bangladesh. (All were from Dhaka and its surroundings) These factories were being selected according to their specific determinants such as working conditions, working hours, leave, fringe benefits, trade union activities, dismissal matters, gender discriminations etc. These socio-economic determinants and factory's individual background offers diverse perspective about present status of women workers' socio-economic conditions that the present study intends to carry out in depth.

After the brief explorative research the study was gradually targeted to collect data from Dhaka district and Chittagong Metropolitan city where majority of garments factories are concentrated. From Dhaka District 50 factories and from Chittagong Metropolitan city 20 factories were selected for survey. Population of this research is both male and female workers in garments industry of Bangladesh. Though my target group was women workers of garments factories yet I had to interview male workers also due to technical reason.

ii) Methods of data collection

The research methods are directly guided by the major question asked in the study, what is the present state of women workers' of the garments industry in Bangladesh?

The nature of research topic supports the use of ethnographic methods.

Hammersley and Atkinson(1983) state the ethnographer participates overtly or covertly in people's daily lives for any extended period of time watching what happens, listening to what is said, asking question, in fact collecting whatever data are available to throw light on the issue with which he or she is concerned. The systematic ways of observations, listening and asking questions, analyzing the documents, comprise the techniques of data collection in field research, namely participant's observations, interviews and collection of written and non-written source of information from the field.

Data was collected from both primary and secondary sources. The secondary sources are newspapers, magazines, journals, related publications etc. The primary data is collected by "Systematic Sampling Method" through designing questionnaire (open and closed ended questionnaire), direct observations, discussing (formal and informal) with garments workers, employers and trade union leaders.

Social Status of women garments workers in our society.

The predominant force in the social organization of Bangladesh is patriarchy. Patriarchy in this context means that all avenues of power and authority within the family and the society reside entirely in the hands of the male. Patriarchy finds expression in the perceived notions of male superiority and female dependence and subordination. The practice of patriarchy engenders women, whether a sense of worthlessness, servitude and dependence, which largely suppress and limit her individual development.

In Bangladesh, female dependence may be perceived from two perspectives. Firstly, the physical strength and superiority of men have endowed them with the role of protector of the physically weaker sex, namely women. Women require to be protected by successive male kinsmen at the appropriate stages of their lifecycles, father or brother, husband and eventually son¹. This means that women are often incapable of, or disallowed from making their own decisions and thereby have their freedom of action curtailed.² Secondly, women have little control over the economic aspects of the family.

Breaking the Barriers: Women's entry and participation in waged employment.

To emphasize that patriarchal subordination is all pervasive entails no assumption that women have actually accepted their position. On the contrary, patriarchal relations have often met with resistance. While there is no doubt that women are assigned a subservient role in the male dominated society of Bangladesh, socio-economic changes find them departing from the sex stereotyped roles and engaging in income generating activities in the urban labour market. As a result, there appears to be a steady rise in women's employment in the organized sector. For example, occupation such as public sector employment, private sector employment, educational institutions and administrative services constitute the parameters of employment.

However, the ideological control of gender roles is gradually being eroded as the capacity of poor households to observe social restrictions is constrained by the higher imperative of generating sufficient household income. Transformation on demographic and agrarian structures, through process of urbanization and changes in the composition of households, has created options for female participation in labour markets, especially in the ready-made garments industry in Bangladesh.

¹ Adnan, Shapan, "Birds in a cage" : " Institutional change and Women 's position in Bangladesh", Journal of Social Studies , no. 46, October ,1989 pp1-34 at p4

² Westergaard , Kirsten, Pauperization and rural women in Bangladesh, BARD, Comolla, Bangladesh, 1993, p76

Socio-economic impacts of women garments workers in our national economy

The ready-made garments (RMG) industry in Bangladesh has become the main export sector and a major source of foreign exchange since late 1980s. From about 4% of the country's total export earnings in 1983-1984, within a span of 15 years, the RMG industry accounted for about 76% of country's total export earnings in 1999 making Bangladesh one of the 12 largest apparel exporters in the world¹. In 2006, this RMG industry accounted for 10.5% of the country's Gross Domestic Products (GDP), Contributed 40% to the manufacturing output, and provided jobs for 4.5 million people².

It is shocking and very unfortunate that a very gloomy atmosphere is existing in our garments factories which earn the largest share in the country's foreign exchange.

The fact that garment workers are the least rewarded section of society has now become neglected segment of the society.

The payment structure of our ready-made garments factories is miserable and the owners do not increase wage as that would reduce the profit margin of the owners.

Extremely poor and unemployed people flock to towns for getting jobs in the garment factories and dwell in slums where living conditions are very bad on the other hand; these slums are often mysteriously burned, apparently, for land grabbing or repossession. Large portion of these work force are women who are very hapless and helpless because of the economic conditions. They come to town for getting extremely cheap wage in the garments factories. Women are very vulnerable in terms of social and economic securities. So, owners of the factories as well as government should pay proper attention to this matter. Owner must understand that women workers need extra protections and facilities like, housing, transport, and child raising facilities in the work place so that they can feel security and hence can work wholeheartedly for improving productivity.

The owner of the garment factories must realise that these women workers are valuable human assets for the garments factories. So, to maintain this valuable assets minimum wage determination should be done very logically, so that these hapless women workers can survive and become an asset for the factories.

As per the "Labour Law of Bangladesh-2006" minimum wage is Tk. 1662.50 per month for grade-7 workers who have completed their probation period.³ This minimum wage is really insufficient for maintaining monthly expenses of the workers. Dr. Fahmida A Khatun, a senior research fellow of Centre for Policy Dialogue (CPD) Bangladesh, said that "if a worker needs to consume 2,122calories of food every day, he or she has to spend Tk. 1016 per month only for food. But the workers have to bear other costs of the family as well." So, this minimum wage is not fulfilling for the workers subsistence level wage even.⁴ Dr.Fahmida A. Khatun, also said "that the workers have also been deprived of the profit of currency fluctuation as per the accounts of Consumer Price Index(CPI) and per capita Gross Domestic Products(GDP)," she also added that if we adjust both CPI and GDP with the workers' existing wage, per month workers' minimum wage should be TK.2156⁵

¹ Nasreen Khundker. 2002. Garment industry in Bangladesh. www-ilo-mirror.cornell.edu/public.

² Reuters.2008. The Textile and Garment Industry in Bangladesh Increased by 18.2% to Reach USS9.6bn. www.reuters.com

³ The Daily Star 24.09.2006

⁴ The daily Star 30 May,2006

⁵ The daily Star dated 24.09.2006

So, it is our earnest request to the owners of the factory and to the government to revise minimum wage and to fix minimum wage as much as practical based on the present Consumer Price Index (CPI).

It is very important to have a good relationship with workers and employers in the factory for the benefit of the employees as well as employers which is possible to achieve through building trusts and respects for each other. It must be understood that both the workers and the employers objective is the same to achieve better performance for better outputs and hence to contribute to the national economy. We do not want to see that factory owners seal windows to prevent pilferage of raw materials at the cost of workers' safety and lives any more. If it is done, then, in case of fire accident, workers' lives will be endangered to death as all exit stay remain shut. So, this gloomy picture from garments industry needs to be removed by building up mutual trust and respect among the employers and the employees.

It is also important to give emphasis on the improvement of the management knowledge and skills to improve productivity of the workers. With the expected changes in the management system, the role of the supervisors in the industry demands new knowledge and skills. For good labour relation and higher productivity, supervisors have a distinct role to play. They must have adequate knowledge to handle the workers. The first line supervisor plays the key role of linking pin between the worker and higher level management. Due to rapid and large scale growth in the apparel industry there are gaps in the supervisory skills. Most of the supervisors are promoted from workers who have skills in the specific jobs but do not have skills and experiences in handling disciplinary matters of the workers. If the supervisors fail to act properly and in time then it may too be difficult for higher level management to solve it as problems will be much complicated and complex which may create labour unrest in the factory.

Chapter-2

REVIEW OF LABOUR LAW

(GENERAL PRICIPLES OF LABOUR AND INDUSTRIAL LAW)

Nature of Labour and Industrial Law

The terms 'Industrial law' and 'Labour Law' are often used interchangeably in our legal system though the nature and scope of 'Industrial law' is much broader compared to 'Labour law'. From a broader point of view 'Industrial law' covers 'Labour law'. 'Industrial law' encompasses all laws, case laws, rules and recognized custom relating to an industry. Thus it covers not only the labour element in an industry but also taxation law, company law, safety law etc. On the other hand, labour law is used to mean that body of rules which deal with employment conditions, in particular, conditions of appointment, termination, dismissal, discharge, wages conditions of leave, benefits, right to trade unions, social security etc. of an worker in any establishment. Both labour and industrial laws are not only a body of procedural or adjective law but also a substantive law as they define rights and concepts as well, prescribe the procedure of dispute settlement.

The Object of Labour and Industrial Law

The object of both the law is to establish a continuous process of harmonious relationship between the employers and employees. They have another object of fastening together both the labour and capital in order to create an atmosphere that they are an indivisible whole in production. The ultimate object of labour and industrial law is to maintain industrial peace, security and steady growth of production.

The origin and growth of labour law may be ascribed mostly to the development of organized industry where a large number of workers including women and children are employed under conditions which tend to be detrimental to their health, safety and welfare and against which they are often unable to protect themselves.

From historical point of view, labour law has given birth to some fundamental industrial rights to laborers in the field of production. At the same time it has also provided protection for those rights.

From a practical point of view labour and industrial law provide for three types of dispute settlement measures: voluntary settlement machinery, quasi- judicial machinery and judicial machinery.

Need for Labour and Industrial Legislation—

Labour and Industrial legislation is necessary for the following reasons:

(i)The individual workers are economically weak. They cannot bargain with the employers for the protection of their rights and even for subsistence wages. As such legislation for protection of

labour against long hours of work, unhygienic conditions of work, low wages and exploitation is needed.

(ii) The workers are exposed to certain risks in factories, mines and other establishments. As such in order to make provisions for their health, safety and welfare, legislation is needed.

(iii) In order to increase the bargaining power of labour, legislation is necessary to encourage the formation of trade unions.

(iv) In order to avoid industrial disputes which lead to strikes and lock-outs, labour legislation is needed.

(v) To protect children and women from taking to work under hazardous conditions and at odd hours, legislation is essential.

(vi) Laws for providing compensation to workmen who die or are injured during and in the course of employment are also essential.

(vii) Labour legislation advances the interest of the working people and thus helps set up the development of the national economy on a sound and self-reliant basis.

(viii) Labour and industrial law provides for industrial harmony in the country. Industrial harmony is indispensable when a country plans to make economic progress. It is true that no nation can hope to survive in the modern technological age unless it is wedded to industrial development and technological advance. Economic progress is bound up with industrial harmony for the simple reason that industrial harmony inevitably an idea to more co-operation between employers and employees, which results in more productivity and thereby contributes to all-round prosperity of the country. Healthy industrial relations, on which industrial harmony is founded, cannot therefore be regarded as a matter in which only the employers and employees are concerned; it is of vital significance to harmony involves the cooperation not only of the employers and the employees, but also of the community at large. This co-operation stipulates that employees and employers recognize that though they are fully justified in safeguarding their respective rights and interests, they must also bear in mind the interests of the community. To conclude, industrial harmony is a product of goodwill and understanding between labour and management and, if for whatever reason, one or the other side fails to observe the rules of the game, the laws should be such as to take care of the offenders impartially.

Principles of Labour Legislation

Labour legislation is based on certain fundamental principles which are follows.

1. **Social Justice:** In an industrial set-up, social justice means inequitable distribution of profits and benefits accruing from industry between industrialists and workers and affording protection to the workers against harmful effect to their health, safety and morality. Mere compliance with and enforcement of legal rights may be unfair and cause hardship to the enforcement of legal

rights by the workers. Chapters ten, eleven, twelve, sixteen, seventeen of the Bangladesh Labour Act, 2006, for examples, are attempts at securing social justice to the workers. The provisions of **Chapter three, four, five, six, seven, eight and nine of the Labour Act** fixing hours of work, overtime, leave privileges, welfare facilities and safe working conditions are also directed towards the same end.

Social justice is the signature tune of the Constitution of Bangladesh and this note is nowhere more vibrant than in industrial jurisprudence. The Preamble to our Constitution also lays down the objective of establishing 'economic and social justice', 'a society free from exploitation'.

2. Social Equity: Another principle on which Labour Legislation is based on social equity. Broadly speaking, social equity is a part of social justice. Legislation based on social justice fixes a definite standard for adoption for the future, taking into consideration the events and circumstances of the past and the present. But with the change of circumstances and ideas there may be a need for change in the law to suit the changed situation, to ensure the principle of social justice and equity. However, from the view point of Bangladesh the principle of social equity seems to be absent in most of labour legislation. Most of the labour legislations have been made centuries ago but no timely change has been made by the Government even after 36 years of its independence. The glaring example is the Workmen's Compensation Act, 1936 where the minimum compensation payable to the dependent of a worker in case of death' is Tk. 8,000 and the maximum is Tk. 21,000 which is very inadequate compared to other available figures in any other countries. In India the minimum amount is Rs. 50,000 and the maximum is fixed at Rs. 2, 74 lac. However, recently in 2006 a consolidated Labour Act Passed by the parliament has attempted to modernise the laws. Now the minimum compensation payable to the dependants of a worker in the case of death is Tk. 100, 000.

International Uniformity: International uniformity is another principle on which labour laws are based. The important role played by the International Labour Organization (ILO) in this connection is praiseworthy. ILO is an international organization which was founded in 1919 soon after the First World War. The main aims of the ILO are: (i) to remove injustice, hardship and privation of large masses of toiling people all over the world; and (ii) to improve their living and working conditions and thus establish universal and lasting peace based upon social justice. ILO consists of representatives of Government, employers and workers of the member countries. There is parity of representation as between Government and non-Government groups and also between employers' and workers' groups. The structure of the Organization has helped in welding together employers and workers in different countries into independent organizations. By its tripartite character of association of representatives of Government, employers and workers, it has produced a large number of international Conventions and Recommendations covering unemployment, general conditions of employment, wages, hours of work, holidays,

employment of children, young persons and women, industrial health, safety, social security, industrial relations and many other allied Subject. The basic principles of the Labour Policy of ILO are: (a) Labour is not a commodity; (b) Freedom of expression and of association is essential to continued progress; (c) Poverty anywhere constitutes a danger to prosperity every where.

ILO aims at securing minimum standards on a uniform basis in respect of all labour matters. Conventions passed by ILO conferences, if and when ratified by a member-State, have to be implemented through appropriate legislation. Most of the Labour Legislation in Bangladesh is based on ILO principles.

4. National Economy: In enacting labour legislation, the general economic situation of the country has to be borne in mind lest the very objective of the legislation be defeated. The state of national economy is an important factor influencing the labour legislation in the country.

Constitution as the basis for Labour Legislation

The Fundamental Rights and the Directive Principles of State Policy enshrined in our Constitution need a special mention in view of their supreme importance in directing and influencing the Labour Legislation in Bangladesh.

Fundamental Rights

The Fundamental Rights cover, inter alia equality before the law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, equality of opportunity in matters of public employment, protection of rights regarding freedom of speech, freedom of assembly and associations, freedom to practice any profession, protection of life and personal liberty, and protection against exploitation.

1. Prohibition of Forced Labour: Article 34 of the Constitution specifically provides as one of the fundamental rights that all forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law (Article 34).

2. Freedom of Association: Every Citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of morality or public order (Article 38).

3. Discrimination on ground of Religion (etc: Article-28)(1). The State shall not discriminate against any citizen on grounds only of religion, race, caste sex or place of birth.

(2) There shall be equality of opportunity for all citizens in respect of employment or office in the service of Republic.(Article-29)

(3) Nothing in this article shall prevent the State from making special provision in favors of women or children or for the advancement of any backward section of citizens (Article 28).

Fundamental Rights are enforceable in the Law Courts and create justifiable rights in individuals. Article 26 of the Constitution expressly provides that all laws in force in the country immediately before the commencement of the Constitution which are inconsistent with the Fundamental Rights conferred by the Constitution shall to that extent be void.

Directive Principles of State Policy

The Directive Principles lay down the guiding principles which the State ought to follow both in framing laws and enforcing them. They confer no legal remedies. But still they provide a good guide in charting the part of the State in the governance of the country.

The relevant Directive Principles affecting, directly or indirectly, Labour legislation are as follows:

1. Principles of Ownership: The people shall own or control the instrument and means of production and distribution, and with this end in view ownership shall assume the following forms:

State ownership, co-operative ownership and private ownership (Article 13).

2. Emancipation of Peasants and Workers: It shall be a fundamental responsibility of the State to emancipate the toiling masses- the peasants and workers- and backward sections of the, people from all forms of exploitation, (Article 14).

3. Provision of Basic Necessities: It shall be a fundamental responsibility of the State to attain, through planned economic growth a constant increase of productive forces and a steady improvement in the material and cultural Standard of living of the people, with a view to securing to its citizens

(a) The provision of the basic necessities of life, including food, clothing, shelter, education and medical care;

b) the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of works;

c) The right to reasonable rest, recreation and leisure; and (d) the right to social security, that is to say, to public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widow's orphans or in old age, or in other such cases. (Article 15)

4) Equality of Opportunity: (1) The State shall endeavour to ensure equality of opportunity to all citizens.

(2) The State shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of

opportunities in order to attain a uniform level of economic development through out the Republic (Article 19).

5) Work as Right and Duty: (1) Work is a right, a duty and matter of honour for every citizen who is capable of working and everyone shall be paid for his work on the basis of the principle “from each according to his abilities, to each according to his work”.

(2) The State shall Endeavour to create conditions in which, as a general principle, persons shall not be able to enjoy unearned incomes, and in which human labour in every form, intellectual and physical, shall become a fuller expression of creative Endeavour and of the human personality (Article 20).

Though the Directive Principles are not justifiable, they were nevertheless regarded by the founding fathers of the Constitution as fundamental in the governance of the country. To say that these principles are not justifiable merely means that a citizen will not be entitled to go to the Supreme Court asking for an appropriate order or direction calling, upon the government to take active steps to enforce one or more of these Directive Principles. But still the Directive Principles are fundamental guideposts for the State action. They envisage a new socio-economic order for the country. This has given a wholly unconventional role to the legislation.

Classification of Labour Legislation

Before the enactment of the Labour Act 2006 laws relating to labour in Bangladesh were very much scattered and diverse. However after the enactment of the Labour Act 2006 the main body of the labour legislation is now much more consolidated and unified. Apart from the Labour Act 2006 there are still some laws which deal with some aspects of labour-capital relationship.

The Bangladesh Labour Act 2006 covers the following aspects of the labour legislation :

A. Laws on Establishments:

(1) Various chapters of Labour Act 2006 cover on factories, shops and establishments other than Government establishments.

B. Laws on Conditions of Service:

(i) Chapters 2, 3,4 of the Labour Act, 2006

C. Laws on environment of Factories and Establishments:

(1) .Chapters 5, 6, 7, 8 and 9 of the Labour Act 2006

D. Laws relating to Association of Workers: Trade Unions and Settlement of Industrial Disputes:

(i) Chapter 13 of the Labour Act, 2006

E. Laws relating to Settlement of Industrial Disputes:

(i) Chapter 14 of the Labour Act, 2006

F. Laws on Wages and other Benefits:

(i) Chapter 10 and 11 of Labour Act,-2006

G. Laws on welfare of worker:

(i) Chapter 4 and 8 of Labour Act,-2006

H. Laws on Compensation and Social Insurance:

(i)Chapter 12,15,16,17, of the Labour and Act,-2006

THE NATURE, SCOPE AND APPLICABILITY OF THE LABOUR CODE

Background of the Act

The laws which the Labour Act 2006 has replaced were made mostly during the British Colonial regime and Pakistan period and they were as many as 50 in number. In many cases these laws were outdated, scattered, inconsistent and often overlapping each other. In 1992 a Labour Law Commission was formed by the Government of the day which examined 44 labour laws and recommended to repeal 27 laws and it prepared a draft Labour Act in 1994. This draft of Labour Act, 1994 underwent series of changes in its vetting stages and finally the Bangladesh Labour Act, 2006 was passed by the Parliament on October 11, 2006.

Nature:

The Labour Act is both procedural and substantive law as it gives some substantive rights duties to labour class and the employers and at the same time outlines the ways and means get redresses regarding labour disputes.

The Act is a special legislation creating separate forum for labour disputes and grievances and therefore usually the application of the CPC(Code of Civil Procedure) and normal jurisdiction of the civil court is ousted. Where right is created by a statute which also prescribes the manner in which the right may be enforced, the party complaining of any infringement of such can only seek such remedy as is provided by that statute. The forum of labour court has been created by special statute, as distinguished from a general law, the Civil Procedure Code. As such the provisions of the special statutes shall prevail over those of the general law (Jogesh Chandr Datt v. Government of Bangladesh, 30 DLR 219), (Senior Manager, Messrs Dost Textile Mills Ltd. and another vs. Sudansi, Bikash Nath 8 BLD (AD) 66).

SERVICE RULES AND TERMS OF EMPLOYMENT

Standing Orders or Service Rules

The term 'standing orders' may be used in different senses in different situations. Generally it means orders and regulations framed by the government or the House of Parliament or the Council or assembly for permanent guidance and order of their proceedings. For instance, standing order of the House of Commons and House of Lords (equivalent to the Rules of Procedure of our Parliament). In the field of labour and industrial law this term has different meaning. As far as labour and industrial law is concerned, standing orders mean a set of rules regulating the conditions employment of workers in any shop, commercial or industrial establishment.

Condition of Employment

Chapter II of the Labour Act, 2006 specifies various conditions of employment which are as follows:

- (i) Service rules or standing orders (Section. 3).
- (ii) Letter of appointment and ID card (Section. 5)
- (iii) Service book (Section. 6) (iv) Register of Workers (Section. 9)

Letter of appointment and identity card: Section 5 of the Code provides that no employer shall employ any worker without issuing such worker a letter of appointment and every worker so appointed shall be given an identity card with photograph.

Service Book: Section 6 of the Act provides following with regard to service book:

- (1) Every employer shall, at his own cost, provide a service book in respect of every worker employed by him.
- (2) Every such service book shall be kept at the custody of the employer.
- (3) Before employing a worker, the employer shall require from him service book if he asserts that he has been previously in employment under any other employer.
- (4) If such worker has any service book, it shall be handed over to the new employer who shall keep it in his own custody, and for this a receipt shall be given to the worker.
- (5) If such worker has no service book, a service book shall be provided under sub-section (1).
- (6) If a worker desires to maintain a duplicate copy of his service book, he may do it at his own cost.
- (7) The employer shall hand over the service book to the worker on the termination of his job.
- (8) If the service book handed over to the worker or the duplicate thereof maintained by him is lost by him, the employer shall, at the cost of the worker, provide a copy thereof to him.
- (9) These provisions shall not be applicable to an apprentice, badly or casual worker.

Forms of Service Book: Section 7 of the Act provides following as to the form of service book:

- 1. The service book shall be of such size and in such form as may be prescribed and a photograph of the worker shall be affixed to it.
- (2) The service book shall contain the following particulars, namely:-
 - (a) Names and addresses of the worker, his mother and father (name of husband/wife shall also be written where appropriate).
 - b) Date of birth;
 - (c) Particulars necessary to identify him/her
 - (d) Name and address of the person under who previously employed, if any;
 - (e) Period of employment;
 - (f) Occupations or designation;

- (g) Wages and allowances (if any);
- (h) Leave availed; and
- (i) Conduct of the worker.

Entries in the service book :Section 8 of the Act specifies that the employer shall at the commencement of the employment and during the continuance of the same make such entries therein from time to time and he or the worker shall sign the entries as they are made.

Register of workers and supply of tickets and cards: Section 9} provides following with
Regard to the registers of workers:

(1) The employer of every establishment shall maintain a register of workers, to be available to the Inspector at all times during working hours.

(2) The following particulars shall be stated in the register, namely

- (a) The name and date of birth of every worker;
- (b) Date of appointment;
- (c) The nature of his/her work;
- (d) The periods of work fixed for him/her;
- (e) The intervals for rest and meals to which he/she is entitled;
- (f) The days of rest to which he/she is entitled;
- (g) The group, if any, in which he/she is included;
- h) Where his/her group works on shifts, the relay to which he/she is allotted;
- (i) Such other particulars as may be prescribed.

(3) If the Inspector is of opinion that any muster roll or register maintained as part of the routine of an establishment contains the particulars required under sub-section(2) he/she may, by order in writing ,direct that such register or master roll shall be maintained in place of, and be treated as, as the register of workers.

(4) Tickets or cards shall be supplied to the workers by the employers in the following manner:

- a) Every permanent worker shall be provided with a permanent departmental ticket showing his/her number;
- (b) every badli worker shall be provided with a badli card on which shall be entered the days on which he/she has worked and which shall be surrendered on his getting permanent employment;
- (c) Every temporary worker shall be provided with a temporary ticket which shall be surrendered on his leaving the job or getting a permanent employment;
- (d) Every casual worker shall be provided with a casual card on which shall be entered the days on which he/she has worked.
- (e) Every apprentice shall be provided with an apprentice card /which shall be surrendered at the time of his/her leaving the training or on his/her getting permanent employment.

Procedure for Certification of Service Rules and Operation thereof

Who is to submit the Draft Service Rules?

- (i) Under section 3 of the Act read with rules 13 and 14 of the Employment of Labour (Standing Orders) Rules, 1968 the employer of a shop, commercial or industrial establishments have a legal duty to submit five copies of draft service rules to the Chief Inspector of establishments for its approval.
- (ii) The employer of every establishment has the burden of preparing draft service rules (Section 1(2))

When Rules becomes Effective?

- (iii) A service rules framed by an employer shall not be effective unless and until the same is approved by the Chief Inspector (Section 3(3)).
- (iv) Rule 14(7) of the Employment of Labour (Standing Orders) Rules 1968 provides that the service rules shall not come into **(Rules framed under the previous laws are still valid since no fresh rules have been framed under the present Labour Code)** force until after expiry of thirty days from the date on which the Inspector puts his seal and signature of approval under sub-rule (6) or if any appeal has been preferred against, the order of the Inspector under sub-section (3) of section 3 of the Act, until the disposal of the appeal.

LEAVES AND HOLIDAYS

Provisions of Leaves and Holidays

Sections 10 and 11 of the Labour Act, 2006 deal with the application for, consumption and effect of holidays of workers.

Heading	Shops,Factories and Commercial Establishment	Road Transport establishment
Weekly holiday	1 and half day holiday for Shops and Commercial Enterprise but 1 day holiday for factories workers(Section-103)	1 day (Section-103)
Casual leave	10 days a year (Section- 115)	10 days a year (Section-115)
Sick leave	14 days a year (Section-116)	14 days a year (Section-116)
Festival leave	11 days a year (Section-118)	11 days a year (Section-118)
Annual leave	1 day for every 18 days of work in the previous year (Section-117)	1 day for every 22 days of work in the previous year (Section- 117)

Application for Leaves

Section 10 of the Labour Act, 2006 lays down the following procedure of applying for leave of absence:

- a) **Application to the Employer:** A worker wishing to obtain leave of absence shall apply to his/her employer in writing stating his/her leave-address therein. It is a legal obligation for every employer to maintain a Leave Register for the purpose of leave of its workers.
- b) **Issue of order by the Employer:** On submission of application, the employer or his authorized person shall issue order on the application within a week of its submission to two days prior to the commencement of leave applied for. The order may be of granting, refusing, or postponing of leave.

(c) **Urgent Leave:** If, due to emergency reasons the leave applied for is to commence on the date of application or within three days thereof, the order shall be given on the same day.

(d) **Leave Pass:** If the leave asked for is granted, a leave pass shall be issued to the worker.

(e) **Refusal:** If the leave is refused or postponed, the fact of such refusal or postponement and the reasons thereof shall be recorded into the Leave Register.

(f) **Extension of Leave:** If the worker, after proceeding on leave, desires an extension thereof he shall, if such leave is due to him, apply sufficiently in advance before the expiry of the leave to the employer who shall, as far as practicable, send a written reply either granting or refusing extension of leave to the worker to his/her leave-address.

Payment of Wages for unavailed leave: If the services of a worker, to whom any annual leave is due under the provisions of any law, is dispensed with whether as a result of retrenchment, discharge, dismissal, termination, retirement or by reason of his resignation before he/she has availed of any such leave, the employer shall pay his/her wages in lieu of the unavailed leave at the rate he/she is entitled to the payment of wages during the period of leave in accordance with the provisions of those laws and such payments shall be made before the expiry of the second working day after the day on which his/her employment is dispersed with (sec. 11).

Effect of unauthorized Leave of Absence

The effect of unauthorized leave has been mainly dealt with in section 23 of the Code. This is as follows:

(i) **Unauthorized Leave is Misconduct:** Clause (d) of sub section (4) of section 23 provides that absence without leave for more than ten days is a kind of misconduct. For such misconduct a worker may be dismissed under section 23 of the Code. Thus to dismiss a worker for unauthorized leave on the ground of misconduct, the worker must be absent without leave for more than ten days. If a worker is absent without leave ten days or less, he cannot be dismissed under section 23 on the ground of misconduct.

Absence without leave for more than ten days may constitute misconduct for which a worker may be dismissing from service. In that event a proceeding is required to be drawn under the law to comply with the rule of principle or natural justice (Glaxo Bangladesh Ltd Vs. Chairman Labour court and others 32 DLR (1980) (HCD) 134).

ANNUAL LEAVE AND HOLIDAYS WITH WAGES

A). **Annual Leave with Wages:** This is also known as earned leave. Action 117 deals with the provisions of annual leave with wages. The basis of calculation of the annual leave to which a worker would be entitled in a year is the previous calendar year during which he/she had worked in a factory. The rules are as follows:

(1) Every adult worker who has completed a period of one year continuous service in the establishment, shall be allowed, during the subsequent period of twelve months, leave with full wages for a number of days, calculated at the rate of one day

(a) In the case of a shop, commercial or industrial establishment or factory, or transport establishment, for every eighteen days of work;

(b) In the case of a worker in a tea plantation, for every twenty- two days of work; c)In the case of newspaper employees, for every eleven days of work.

(2)Every worker, who is not an adult, who has completed a period of year continuous service in the establishment, shall be allowed during the subsequent period of twelve months, leave with full wages for number of days, calculated at the rate one day-

(a) in the case of a factory for every fifteen days of work;

(b) In the case of a worker in a ten plantation, for every eighteen days of work;

(c) In the case of a shop commercial or industrial establishment for fourteen days of work

(3) A period of leave under this section shall be inclusive of any holiday which may occur during such period.

(4) If a worker does not, in any period of twelve months, take the leave to which he is entitled under sub-section (1) or (2), either in whole or in part, any such leave not taken by him shall be added to the leave to be allowed to him in the succeeding period of twelve months.

(5) An adult worker shall cease to earn any leave under this section when the earned leave due to him-

(a) in case of a factory, or transport establishment amounts to forty days,

(b) In case of a tea plantation, shop, commercial or industrial establishment, amounts to sixty days.

(6)A worker who is not an adult, shall cease to earn any leave under this section when the earned leave due to him-

(a) in case of a factory, or tea plantation amounts to sixty days,

(b) in case of a shop, commercial or industrial establishment, amounts to eighty days.

(7) Any leave applied for by a worker but refused by his employer shall be added to the credit of such worker beyond the limit as specified in sub-section (5) and (6).

B) Festival Holidays: Section 118 provides for festival holidays. It lays down that -

(i) Every worker shall be allowed at least 11 days' festival holidays with full wages in a year. The day's and dates for such festivals shall be fixed by the employer in such a manner as may be prescribed.

(ii) A worker may be required to work on any festival holiday, but two days' additional compensatory holidays with full pay and a substitute holiday shall be provided for him/her.

C) Casual Leave and Sick Leave: Sections 115, 116 prescribe rules relating to casual and sick leave which are as follows:

(i) Every worker shall be entitled to casual leave with full wages for ten days in a year;

(ii) Every worker shall be entitled to fourteen days' sick leave on half average wages in a year.

(iii) The sick leave or casual leave shall not be accumulated and carried forward to the succeeding year.

(iv) Registered practitioner for sick leave.

D) Wages during Leave or Holiday Periods: Section 119 provides for, leave or holiday periods which are as follows:

Calculation of wages and payment during leave or holiday period.- (1) For the leave or holidays allowed to a worker under the provisions of this Act, he shall be paid at the rate equal to the daily average of his full-time earnings including dearness allowances and interim or ad-hoc wages, if any, for the days on which he worked during the month immediately preceding his leave but excluding any overtime allowance and bonus.

Provided that if any worker in an establishment is entitled to any cash equivalent of any advantage accruing from the supply of food grains, it shall be included in his wages.

(2) A worker who has been allowed annual leave for a period of not less than four days in the case of an adult and five days in the case of a young person. At any time, shall, in so far as it is practicable, be paid the his/her wage for the period of the leave so allowed, before his/her leave begins.

RETRENCHMENT

Section 2(11) defines the term 'retrenchment' as the termination by the employer of services of workers, not as a measure of punishment inflicted by way of disciplinary action, but on the ground of redundancy. Thus retrenchment is a permanent measure to remove surplus staff; it results in a complete severance of employer-employee relationship. The definition also makes it clear that retrenchment is a kind of termination but every termination is not retrenchment. To be retrenchment the termination must be on the ground of redundancy.

Conditions for Retrenchment:

According to section 20 read with section 2(11) the conditions of retrenchment are as follows:

Except the permanent workers other categories are following under this Labour Act,2006

- (i) The worker to be retrenched must be given one month's notice;
- (ii) The notice must be given in writing;
- (iii) 'The notice must contain reasons for retrenchment;
- (iv) Alternative to condition (ii) above, instead of giving one month's, a worker may be retrenched instantly by giving him/her payment of wages for the period of notice;
- (v) A copy of the notice of retrenchment must be sent to the Chief Inspector;
- (vi) A copy of the notice must be sent to the Collective Bargaining Agent(CBA)
- (vii) There must be termination of services of a workman on the ground of redundancy or surplus labour in the commercial enterprise or in factory.

Procedure of Retrenchment:

Section 20 of the Code incorporates the well recognized principle of retrenchment in industrial law, namely, the "last come first go" or "first come last go the principles laid down in section 20 for retrenchment procedure adhered to by every employer. The conditions which this section prescribes for the procedure of retrenchment are as follows:

- (i) The person claiming the protection of retrenchment procedure under section 20 must be a 'worker' within the definition in clause (65) of section 2;
- (ii) The person must belong to a particular category of workers in the establishment concerned;
- (iii) there should not be any agreement between the employer and employee contrary to the procedure of 'last come first go'.
- (iv) The employer is bound to comply with all the above conditions while retrenching a worker. However, the employer can deviate from this procedure on justifiable reasons which must be recorded.

Retrenchment Compensation

Under clause (c)of section 20(2) payment of compensation for retrenchment is mandatory. The provisions of compensation for retrenchment are as follows:

- (i) At the time of retrenchment the worker must be paid, compensation equivalent to thirty days' wages for every completed year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher.

- (ii) To claim compensation for retrenchment the worker must show that he/she has been in continuous service for not less than one year under that employer who has retrenched him;
- (iii) If a worker, who is to be laid-off even after first 45 days in a calendar year under section 16(7), is retrenched instead of laying-off, no notice will be required. However, he/she shall be paid 15 days' wages in addition to the compensation or gratuity which may be payable;
- (iv) Wages as compensation for retrenchment will mean the average of the basic wages plus dearness allowances, if any, paid during the period of twelve months immediately preceding the date of retrenchment.

Re-employment of Retrenched Workers

Retrenchment of surplus workers causes undue sufferings not only to the retrenched worker but to all his/her dependents. Therefore, in order to avoid hardship to the worker and his/her family, the provisions have been made in Section 21 of the labour Act 2006, that such workmen should be given an opportunity to join service whenever an occasion arises to employ another hand. This principle was regarded as of general application in industrial adjudication on the ground that it was based on considerations of fair play and justice. The section provides that after effecting retrenchment, if the employer proposes to take into his/her employment any person:

- (i) He/she shall give opportunity to the retrenched workers who offer themselves for re-employment; and
- (ii) These retrenched workers will have preference over the new applicants. Thus section 21 imposes legal obligation on the employers to give preference to retrenched workers when he subsequently employs any person.

Conditions of re-employment for Retrenched Workers:

A retrenched worker may claim preference under section 21 on the fulfillment of the following conditions:

- (i) To apply for preference under section 21 the worker concerned must have been retrenched in last one year time prior to re employment (thus a dismissed or discharged worker cannot claim preference in employment);
- (ii) The worker must offer himself for re-employment in response to the notice by the employer;
- (iii) Workers will have priority according to the length of his service under the employer:

DISCHARGE, DISMISSAL AND TERMINATION

Introduction

One of the annoying problems that continue to generate tension and friction in industrial relations is the area of disciplinary action., Sections 22,23, 24, 26 and 27 of the Labour Act,2006 are some of the major steps towards reducing tension and industrial strike and thereby maintain industrial peace and harmony.

Depending upon the gravity of offence committed the following punishments are generally inflicted in disciplinary action against misconduct of a worker by his employer in his disciplinary jurisdiction:

- (i) warning
- (ii) fine;
- (iii) removal;
- (iv) reduction in lower post;
- (v) stopping promotion;
- (vi) withholding of increment;
- (vii) suspension;
- (viii) discharge;
- (ix) dismissal; (x) termination

Discharge

According to section 2(17) 'discharge' means the termination of services of a worker by the employer for reasons of physical or mental incapacity or continued ill health of the worker. In the previous enactment there was additional grounds "or such other similar reasons not amounting to misconduct". Now under the present Labour Code these words are omitted. Thus the meaning of discharge has been made restricted to three specific grounds only.

Nature:

Though discharge is considered to be a punishment; a punitive measure, it is a punishment not with any stigma or misconduct on the part of the worker. The distinction between discharge and dismissal is both of substance and degree. The distinction on point of substance lays in the sense that though both is termination from service and are punitive measures, the grounds of them are completely different. On the other hand, the distinction no point of degree lies in the sense that dismissal is a termination with a stigma, whereas discharge is a termination without any stigma. Again discharge is not a termination simpliciter; it is a termination with specific grounds. In *Assam Oil Company vs. Its Workmen* ((1960) 1 LLJ 587 (SC)) The Indian Supreme Court held that though the order of discharge is couched in words which do not impute any misconduct to the employee, in substance it is based on facts of which according to the employer the employee has been guilty of, and that would make the impugned discharge a punitive dismissal.

Grounds of Discharge:

Section 22 further outlines the grounds of discharge. A worker may be discharged from service on following grounds

- (i) physical incapacity or.

- (ii) mental incapacity; or
- (iii) continued ill health of the worker; or
- (iv) the above incapacity or continued ill health must be certified by a registered medical practitioner.

Conditions of Discharge:

- (i) The person concerned must come under the definition of worker within the meaning of the Labour Act ,2006.
- (ii) The order of discharge by the employer can only be based on either physical or mental incapacity of the worker or his/her continued ill-health.
- (iii) The specified physical or mental incapacity must be certified by a registered practitioner.

The Procedure of Discharge:

Disciplinary proceeding must be undertaken in the case of discharge. However, section 22 of the Labour Act neither defines the word 'physical or mental ill-health'; nor does it lay down for any procedure. It may be assumed that unlike before now a certificate from a medical practitioner will provide necessary arm to the employer to discharge a worker from his/her employment.

Rights of a Discharged Worker:

- (i) A discharged worker who has completed one year of continuous service will get compensation at the rate of 30 days' wages for every completed year of service or any part thereof in excess of six months, or gratuity, if any, whichever is higher.
- (ii) A discharged worker who has not completed one year of continuous service will not get any compensation for discharge.
- (iii) Thirty days' wages means the average of the basic wages and dearness allowance, if any, of the preceding one year.
- (iv) A discharged worker's right over provident fund will not be affected because of discharge (section 29).
- (v) A discharged worker will have a right to get a certificate of service from his employer (section 31).

Dismissal

According to section 2(39) 'dismissal' means the termination of services of a worker the employer for misconduct. Thus as opposed to discharge which is on ground of incapacity or ill-health, dismissal is the termination of service of a worker on grounds of misconduct. Thus

dismissal is a kind of termination of service but this termination is on the ground of misconduct or on the ground of conviction of an offence. Now we need to see what misconduct and other rules relating to dismissal.

Grounds of Dismissal:

A combined reading of sections 2(39) and 23 of the Labour Act, 2006 reveals that there are following grounds of dismissal.

- (i) If a worker is convicted of an offence; or
- (ii) If a worker is found guilty of misconduct under section 24.

Conditions of Dismissal

- (i) The person concerned must come under the definition of a 'worker' within the meaning of the Labour Act, 2006
- (ii) The order of dismissal by the employer can only be based on either conviction for an offence or guilty of misconduct enumerated in section 23 of the Labour Act;
- (iii) Before a dismissal can be effected upon a worker, full departmental proceeding must be drawn in accordance with rules under section 24 of the Labour Act:

Suspension as a Punishment:

- (i) Section 23(2) stipulates that any worker found guilty of misconduct but not dismissed in consideration of any extenuating circumstances, may be suspended, as a measure of punishment, without wages as well as subsistence allowance, for a period not exceeding seven days.
- (ii) The above period of suspension may be within or in addition to the period of suspension of the worker for enquiry under sub se (2) section 24.
- (iii) If a worker is put under suspension under section 23(2) as mentioned above, he will not get any compensation for such suspension.

Suspension pending Enquiry:

- (i) Section 24(2) further stipulates that a worker charged for misconduct may be suspended pending enquiry into the charges against him/her.
- (ii) The period of such suspension pending enquiry shall not exceed sixty days. Thus the departmental enquiry has to be finished within 60 days.
- (iii) An order of suspension shall be in writing and may take effect immediately on delivery to the worker.
- (iv) During the period of such suspension, a worker shall be paid by his employer a subsistence allowance equivalent to half of his average wages including dearness allowance, if any.
- (v) If, on enquiry, the worker is found not guilty, he shall be deemed to have been on duty for the period of suspension for enquiry and shall be entitled to his wages for such period of suspension and the subsistence allowance shall be adjusted accordingly.

Rights of a Worker put under Suspension:

- (i) If a worker is put under suspension under section 23(2) as measure of punishment, he will not get any compensation for such suspension.
- (ii) If a worker is put under suspension pending enquiry under section 24(2), he shall be paid by his employer, during the period of such suspension, a subsistence allowance equivalent to half of his average wages including dearness allowance, if any
- iii) If, on enquiry, the worker is found not guilty, he shall be deemed to have been on duty for the period of suspension for enquiry and shall be entitled to his wages for such period of suspension and the subsistence allowance shall be adjusted accordingly.
- iv) The worker against whom the charge will be enquired has a right to be heard by the enquiry body as specified in section' 24(1)(c)

Rights of a Dismissed Worker for Compensation:

- i) A dismissed worker who has completed one year of continuous service will get compensation at the rate of 14 days' wages for every completed year of service or any part thereof exceeding six month or gratuity, if any, whichever is higher.
- ii) A dismissed worker who has not completed one year of continuous service will not get any compensation.
- iii) 14 days wages means the average of the basic wages and dearness allowance, if any of the preceding one year.
- (iv) If a worker is dismissed on the ground of misconduct, no prior notice or pay in lieu of notice would be required to be given however, he would be given compensation at the rate of 14 days' as mentioned above.
- (v) In a warding punishment the employer shall take into account the gravity of the misconduct, the previous record if any of the worker and any other extenuating or aggravating circumstances that may exist (section 24 (10)).

Termination

Definition of Termination:

The term termination has not been defined in the Labour Act,2006. However, the term may be used in two senses. In ordinary sense it is a general word which includes discharge, dismissal and termination simpliciter. In another sense, i.e. in specific sense the term means termination simplicity which is the subject matter of section 26. In other words, termination as understood in section 26 means removal from the service with termination benefits but this will not amount to discharge or dismissal and the employer will not have to show any reason or grounds for such removal. Thus termination simplicity is the safest step for the employer to remove a worker.

However, though it is the safest, it is the most expensive method of removing a worker in the sense that the employer will have to give a four month's notice or wages in lieu of the same period and also compensation which is much higher compared discharge and dismissal. It is to be born in mind that no case may be filed in the Labour Court against a termination simpliciter (sec. 33(9)).

Conditions of Termination:

- (i) The employer must give one hundred and twenty days notice in the case of monthly rated worker and sixty day's notice in case of other workers;
- (ii) The notice must be in writing;
- (iii) In lieu of notice wages for one hundred and twenty days notice in the case of monthly rated worker and sixty day's notice in case of other workers will have to be given;
- (iv) A terminated worker will have to be given compensation at the rate of thirty day's wages. for every completed year of service for any part thereof in excess of six months;

Termination of a Temporary Worker:

- (i) To terminate a temporary worker the employer will have to give one month's notice in the case of monthly rated worker and 14 day's notice in other cases;
- (ii) The notice must be in writing;
- (iii) This termination must not be due to the completion, cessation, abolition or discontinuance of the temporary work which he was appointed to perform. In these cases there will be required no notice and no question of compensation;
- (iv) Wages for one month or fourteen days as the case may be paid in lieu of such notice

Termination by the Worker:

- (i) If a permanent worker desires to terminate his employment, one month's notice in the case of monthly rated workers, and fourteen days' notice in the case of other workers shall be given by him to his/her employer.
- (ii) The notice must be in writing.
- (iii) A worker who terminates his employment shall not be entitled to the payment of any compensation but he shall be entitled other benefits, if any under this labour Act or under any other law for the time being in force.

MATERNITY BENEFIT AND EMPLOYMENT OF WOMEN

Unlike before, a new chapter titled 'Maternity Benefit' has been added to the Labour Act, 2006 ensuring some rights with regard to maternity benefits. Chapter IV of the Act specifies these rights. They are as follows:

Employment of woman workers prohibited in certain cases (Section-45):

- (i) No employer shall knowingly employ a woman in his establishments during the eight week immediately following the day of her delivery.
- ii) No woman shall work in any establishment during the eight weeks immediately following the day of her delivery.
- (iii) No employer shall employ a woman for doing any work which is of an arduous nature or which involves long hours of standing or which is likely to adversely affect her.
 - (a) if she has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks;
 - (b) if she has to the knowledge of. the employer been delivered of a child within the preceding ten weeks:

Provided: that in the case of a tea plantation worker she may undertake work in the plantation for so long as the medical practitioner of the concerned tea plantation certifies that she is physically fit to do so; and for the days that she does such work, she shall be paid at the prevailing rate of wages for such work, and such wages shall be paid to her in addition to the maternity benefit.

Right, and liability for payment of maternity benefit (Section- 46):

- 1) Every woman employed in an establishment shall be entitled to, and her employer shall be liable for, the payment of maternity benefit in respect of the period of eight weeks preceding the expected day of her delivery and eight weeks immediately following the day of her delivery.
- (2) **Provided** that a woman shall not be entitled to such maternity benefit unless she has worked with the employer for not less than six months immediately preceding the day of her delivery
- (3) No woman shall be entitled to such benefit if she has, at the time of delivery, two or more surviving children, but in that case she shall be entitled to any leave to which she is otherwise entitled.

Procedures regarding payment of maternity benefit (Section- 47)

- 1) Any pregnant woman entitled to maternity benefit under this labour Act may, on any day, give notice either orally in person or in writing to her employer that she expects to be confined within eight weeks of the notice and such notice shall nominate a person for the purpose of receiving payment of the benefit in case of her death.
- 2) If no such notice is given by the woman she shall within seven days of her delivery, give notice to the employer that she has given birth to a child.
- (3) When a notice referred to in sub section (1) or (2) is received, the employer shall permit the woman to absent herself from work -

- (a) From the day following the date of notice in case of notice under sub-section (1);
- (b) From the day of delivery in case of notice under sub .section (2), until eight weeks after the day of delivery.

4)An employer shall pay maternity benefit to a woman entitled thereto in such one of the following ways as the woman desires, namely

- (a) For eight weeks within three working days of the production of a certificate signed by a registered medical practitioner stating that the woman is expected to be confined within eight weeks of the date of certificate and for the remainder of the period for which she is entitled to maternity benefit within three working days of the production of the proof that she has given birth to a child or
- (b) for the said period up to and including the day of delivery within three working days of the production of proof that she has given birth to a child and for the remainder of the said period within eight weeks of the production of such proof or.
- (c) for the whole of the said period, within three working days of the production of proof that she has given birth to a child.

Provided that a woman shall not be entitled to any maternity benefit or part thereof the payment of which is dependent upon the production of proof under this sub section that she has given birth to a child unless such proof is produced within three months of the day of her delivery.

(5) The proof required to be produced under sub section (4) shall be either a certified extract from a birth register under the Births and Deaths Registration Act 2004 (Act No 29 of 2004) or certificate from a registered medical practitioner or any other proof acceptable to the employer.

Amount of maternity benefit (Section- 48)

(1) The maternity benefit which is payable under this Labour Act shall be payable at the rate of daily, weekly or monthly average wages as the case may be, calculated in the manner laid down in sub section (2) and such payment shall be made wholly in cash.

(2) For the purpose of sub section (1) the daily, weekly or monthly a wages, as the case may be, calculated by dividing the total wages earned by the women during the three months immediately preceding the date on which she gives notice under this Chapter by the number of days she actually worked during the period.

Payment of maternity benefit in case of the death of a woman (Section-49):

(1) If a woman entitled to maternity benefit under this Chapter dies on the day of her delivery or during the period of eight weeks thereafter in respect of which she is entitled to the maternity benefit, the liability of the employer under this Chapter shall not, by reason of her death, be discharged, and he shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child and, if the child does not survive

her, the person nominated by her under this Chapter or, if she has not made so nomination, to her legal representative.

(2) If a woman dies during the period in respect of which she is entitled to maternity benefit, but before giving birth to a child, the employer shall be liable only for the period up to and including the date of her death, provided that any sum already paid to her in excess of such liability shall not be recoverable and any amount due at the death of the woman shall be paid to the person nominated by her under this Chapter, or if she has made no such to her legal representative.

No termination of employment of a woman in certain cases (Section-50)

No notice or order of discharge, dismissal, removal, or termination of employment given without sufficient cause by an employer to a women within a period of six months before and eight weeks after her delivery shall have the effect of depriving her of any maternity benefit to which but for such notice or order she may have become entitled under this Labour Act.

HEALTH, SAFETY AND WELFARE MEASURES

Chapter five, six, seven and eight of the Code deal with health and hygiene, safety and welfare respectively. The Code has given much accent to maintain the physical fitness and welfare of the workers by requiring certain minimum standards of occupiers to keep establishments clean and free from effluvia arising from drain, privy or refuse in around the establishment premises. Detailed provisions are inserted to keep inside and outside the factories clean and safe.

Health and Hygiene

A.) Cleanliness: Section 51 of the Code provides for rules as to cleanliness which is as follows:

- (i) Every establishment shall be kept clean and free from effluvia arising from any drain, privy or other nuisance;
- (ii) The accumulation of dirt and refuse shall be moved daily by sweeping or by any other effective method;
- (iii) The floor of every work-room shall be cleaned at least once in every week by washing, using disinfectant where necessary or by some other effective method;
- (iv) All inside walls and partitions, all ceilings, or tops of rooms, and walls, side and tops or passages and staircases shall be repainted or revarnished at least once in every five years;
- (v) Where walls are painted or varnished and have smooth impervious surfaces, they shall be cleaned at least once in every fourteen month;
- (vi) In any other case, they shall be kept white-washed or colour- washed and the white-washing or colour-washing shall be carried out at least once in every fourteen months.

B) Ventilation and Temperature: Section 52 of the Code provides for rules of ventilation and temperature which are as follows:

- (i) Effective measures shall be undertaken in every establishment for securing and maintaining in every work-room adequate ventilation by the circulation of fresh air.
- (ii) Temperature in every such room shall be kept in such as will secure to workers therein reasonable conditions of comfort and prevent injury to health.
- (iii) The walls and roofs of rooms shall be of such material and so designed that such temperature shall not be exceeded and as low as practicable.
- (iv) Where the nature of the work carried on in an establishment involves, or is likely to involve, the production of excessively high temperature, such adequate measures as are practicable, shall be taken to protect the workers there from by separating the process which produces such temperature from the work room by insulating the hot parts or by other effective means.
- (v) If it appears to the Government that in any establishment or class or description of establishments excessively high temperature can be reduced by such methods as white-washing spraying or insulating and screening outside walls or roofs or windows or by raising the level of the roof, or by insulating the roof either by an air space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of those or other methods to be adopted in the establishment

C) Dust and Fume: Section 53 provides for rules relating to dust and which are as follows:

- 1) Dust fume or other impurity which is injurious or offensive to the workers arising due to the manufacturing process must be diverted by effective measures so as to prevent dust inhalation and accumulation in any workroom;
- (2) Exhaust appliance or other safeguards must be used for this.

D) Disposal of Wastes and Effluents: Section 54 of the Code provides that effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

.E).Artificial Humidification: Section. 55 provide for rules relating to artificial humidification which are as follows:

- (i) In any establishment in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.
- (ii) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified is not effectively purified, he may serve on the employer of the factory an order in writing, specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

F) Overcrowding: Section 56 provides -for rules relating to overcrowding which are as follows:

(i) No work-room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(ii) There shall be provided for every workers employed in a work room at least 9.5 cubic meter of space for every worker employed in work- room.

G) Lighting: Section 57 provides for rules relating to lighting which are as follows:

(i) In every part of an establishment where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(ii) In every establishment all glazed windows and skylights used for the lighting of the work-room shall be kept clean on both tile outer and inner surfaces and free from obstruction as far as possible.

(iii) In every establishment effective provisions shall be made for the prevention of glare either directly from any source of light or by reflection from a smooth or polished surface etc.

H) Drinking Water: Section 58 provides following rules as to drinking water:

(i) In every establishment effective arrangement shall be made to provide and maintain at a suitable point convenes situated for all workers employed therein, a sufficient supply of wholesome drinking water.

(ii) All such points shall be legibly marked "Drinking Water" in a language understood by the majority of the workers.

(iii) In every establishment wherein **more than 250 workers** are ordinarily employed, provision shall be made for cooling the drinking water during the hot weather.

(iv) Effective arrangement shall be made for oral dehydration therapy for those workers who may lose water from their bodies for working near or around machineries producing excessive, heat.

1) Latrines and Urinals: Section 59 provides the following rules as to latrine and urinals:

(I) In every establishment -

(a) sufficient latrines and urinals of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are in the establishment;

(b) enclosed latrines and urinals shall be provided separately for male and female workers;

(c) such latrines and urinals shall be adequately lighted and ventilated and supplied with water all times;

(d) all such latrines and urinals shall be maintained in a clean and sanitary condition at all times with suitable detergents or disinfectants or with both;

J) Spittoons: Section 60 provides the following rules as to spittoons:

(i) In every establishment there shall be provided, at convenient places, a sufficient number of spittoons which shall be maintained in a clean and hygienic condition.(ii) No person shall spit within the premises of a factory except in the spittoons provided for the purpose. A notice

containing this provision and the penalty for its violation shall be prominently displayed at suitable place in the premises.

SAFETY MEASURES

Safety is a basic and requirement in an establishment. Unless body, mind and life of workers are secured, smooth and proper working cannot be ensured in any establishment. As indicated earlier, the Labour code is a piece of social legislation and its main object is to ensure adequate safety measures and to promote health and welfare of the workers employed in establishments. The safety provisions are absolute and obligatory in nature, and the employer of every establishment is bound to follow them. They are contained in section 61 to 78 in chapter V. They are as follows:

A. Precaution in case of fire: (Section- 62)

- (i) Every establishment shall be provided with such means of escape, including an alternative stair connected to every floor, in case of fire and fire-fighting apparatus, as may be prescribed.
- (ii) If it appears to the Inspector that any establishment is not provided with the means of escape prescribed under sub-section (1), he may serve on the employer of the establishment an order in writing specifying the measures which, in his opinion, should be adopted within a time specified in the order.
- (iii) In every establishment the doors affording exit from any room, shall not be locked or fastened so that they can be easily and immediately opened from inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards or where the door is between two rooms, in the direction of the nearest exit from the building and no such door shall be locked or obstructed while work is being carried on in the room.
- (iv) In every establishment every window, door, or other exit affording means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in red in Bangla language or by some other effective and clearly understood sign.
- (v) In every establishment there shall be provided effective and clearly audible means of giving warning in case of fire to every person employed therein.
- (vi) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of the establishment.
- (vii) In every establishment wherein more than ten workers are ordinarily employed in any place above the ground floor, or explosive or highly inflammable materials are used or stored, effective measures shall be taken to ensure that all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(viii) In every establishment or factory wherein fifty or more workers are employed, a fire-fighting demonstration must be held at least once in a year and a record book shall be maintained for this purpose in the manner prescribed by the employer.

B) Fencing of Machinery: (Section- 63)

In every establishment the following shall be securely fenced by the safeguards of substantial construction which shall be kept in a position while the part of machinery required to be fenced are in motion or in use, namely-

- (a) every moving part of a prime mover, and every fly wheel connected to a prime mover,
- (b) the head-race and tail-race of every water wheel and water turbine;
- (c) any part of a stock-bar which projects beyond the head stock of a lathe; and
- (d) unless they are in such position or of such construction as to be as safe to every person employed in the factory as they would be if they were securely fenced-
- (i) every part of an electric generator, a motor or rotary converter;
- (ii) every part of transmission machinery; and
- (in) every dangerous part of any machinery

C) Work on or near Machinery in motion: (Section- 64)

- (i) Where it becomes necessary to examine any part of machinery while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker, wearing tight-fitting clothing whose name has been recorded in the register.
- (ii) while he is so engaged such worker shall not handle a belt at a moving pulley unless the belt is less than 15 centimeters in width and unless the belt-join is either laced or flush with the belt.

D) Striking gear and devices for cutting off power: (Section- 65)

In every establishment the following facilities should be existed:

- (i) suitable striking gear or other efficient mechanical appliances shall be provided and maintained to move driving belts.
- (ii) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.
- (iii) in every establishment suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room.

E) Self-acting Machines: (Section- 66)

No traversing part of a self-acting machine in any factory and no material carried thereon shall be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structures which are not part of the machine.

F) Casing of new Machinery: (Section- 67)

(1) In all machinery driven by power and installed in any establishment after the commencement of this Code-

- (a) every set screw, belt or key or any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and
- (b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if it were completely encased.

G) Cranes and other lifting Machinery: (Section- 68)

In every establishment cranes and other lifting machinery must be of

- (i) good construction, sound material and adequate strength;
- (ii) properly maintained;
- (iii) thoroughly examined by a competent person at least once in every period of twenty months, and a register shall be kept containing the prescribed particulars of every such examination;
- (iv) no such machinery shall be loaded beyond the safe working load which shall be plainly marked thereon,

H) Hoists and Lifts: (Section- 69)

Every hoist and lift in every establishment shall be-

- (i) of good mechanical construction, sound material and adequate strength;
- (ii). properly maintained, and shall be thoroughly examined by competent person at least once in every period of six month and a register shall be kept containing the prescribed particulars of every such examination;
- (iii) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;
- (iv) the maximum safe working load shall be plainly marked on every hoist or lift, and greater than such load shall be carried thereon.
- (v) every case of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing.

I) Revolving Machinery: (Section- 70)

- (i) in every room in an establishment in which the process of grinding is carried on, there shall be permanently affixed to each machine in use a notice indicating the maximum safe working peripheral speed.
- (ii) effective measure shall be taken in every establishment to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley disc or similar appliance driven by power is not exceeded.

J) Pressure Plant (Section-71)

where in any establishment machinery used in manufacturing process is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

K) Floors, Stairs and means of access: (Section- 72)

- (i) in every factory all floors, stairs, passages and gangways shall be of sound construction and properly maintained and if necessary they shall be provided with substantial handrails;
- (ii) there shall be provided and maintained safe means of access to every place at which any person is, at any time, required to work.
- (iii) all floors, stairs and gangways shall be wide and obstacle free

L) Pits, sumps, opening in floors, etc (Section- 73)

In every factory, every fixed vessel, sump, tank, pit or opening in the ground or in a floor shall be either securely covered or securely fenced.

M) Weights: (Section-74)

No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him/her injury.

N) Perfection of Eyes: (Section- 75)

The Government may require that effective screens of suitable goggles shall be provided for the protection of persons employed in a process which involves-

- (a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or
- (b) risk to the eyes by reason of exposure to excessive light or heat.

P) Specification of defective Parts etc: (Section- 76)

The Inspector may direct to furnish such specification or particulars as is necessary to remove dangerous conditions in any building or any part of a building or any part of the ways, machineries or plant.

Q) Safety of Building and Machinery: (Section- 61)

- (1) if it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in an establishment is in such a condition that it is dangerous to human life or safety, he may serve on the employer a written order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out within the time specified in the order.
- (2) if it appears to the Inspector that the use of any building or part of building or any part of the ways, machinery or plant in an establishment involves imminent danger to human life or safety, he may serve on the employer an order in writing prohibiting its use until it has been properly repaired or altered.

R) Precautions against Dangerous Fumes: (Section- 77)

- (i) no person shall enter or be permitted to enter any chamber tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be.
- (ii) no portable electric light of voltage exceeding twenty-four volts shall be permitted for use inside any confined space.
- (iii) no person in any factory shall enter or be permitted to enter any confined space until all practicable measures have been taken to remove any fumes;
- (iv) suitable breathing apparatus, reviving apparatus and belts and ropes shall, in every factory, be kept ready for instant use;
- (v) no person shall be permitted to enter in any factory, any boiler furnace, boiler, flue, chamber, tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation etc.

S) Explosive or inflammable Dust, Gas, etc: (Section- 78)

Where in any establishment any manufacturing process produces dust, gas or vapor which is likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by-

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, flame or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

Above are the substance of the provisions relating to safety of workers employed in any factory. It has also been provided in section 40 that Government may make rules requiring such devices as is necessary to provide safety of workers in any factory.

**SPECIAL PROVISIONS WITH REGARD TO HEALTH, HYGIENE
AND SAFETY**

Dangerous operations (Section-79)

Where the Government is satisfied that any operation carried on in an establishment exposes any person employed in it to a serious risk of bodily injury poisoning, or disease, it may make rules applicable to such establishment in which such operation is carried on

- a) specifying the operation and declaring it to be hazardous.
- b) prohibiting or restricting the employment of women, adolescent's children. in the operation;
- (c) providing for the periodical medical examination of persons employed in the operation and prohibiting the employment of persons not certified as fit for such employment;
- (d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on; and use of any specified materials or processes in connection with the operation, and
- (e) providing for notices with regard to any harmful chemicals and the precautions to be taken in connection with its operation.

Notice to be given of accidents (Section- 80):

(1) When any accident occurs in an establishment causing loss of life or bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water or fumes occurs in an establishment, the employer of the establishment shall give notice of the occurrence to the Inspector within, two working days.

(2) Where an accident referred to in sub-section (1) cause's bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty eight hours it shall be entered in a prescribed register

(3) A copy of the entries in the register referred to in sub-section (2) shall be sent by the employer of the establishment, within fifteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.

Notice of certain dangerous occurrences (Section- 81):

Where in an establishment, any. day occurrence of such nature as may be prescribed, occurs, whether causing any bodily injury or not, the employer of the establishment shall send notice thereof to the Inspector within three working, days.

Notice of certain disease (Section- 82):

(1) Where any worker in an establishment contracts any disease in the Second Schedule, the employer or the worker any person authorized by him in this behalf shall send office thereof to the Inspector in such form and within such time as may be prescribed.

(2) If any registered medical practitioner attends on a person who is, or has been employed in an establishment and who is, or is believed by such medical practitioner to be, suffering from any disease specified in. the Second Schedule, the medical practitioner shall, without delay, send a report in writing to the Chief Inspector stating-

(a) the name and full postal address of the patients;

(b) the disease from which he believes the patent to be suffering,

(c) the name and address of the factory in which the patient is or was last employed

WELFARE MEASURES

Welfare is a very broad concept. It connotes a condition of well-being, happiness, satisfaction, conservation and development of human resources. The term 'welfare' applied to labour, therefore, refers to adoption of measures which aim at promoting physical, psychological and general well-being of the working population. The basic aim of welfare measures in an industry is to improve the living and working conditions of workers and their families. Chapter VIII of the Code provides for the following provisions with a first welfare of workers in a factory:

A. First-aid Appliances: (Section- 89)

(i) every establishment shall provide and maintain during all working hours first-aid boxes or cup boards and there shall be one such box for every 150 workers ordinarily employed in the establishment.

(ii) the first aid box or cupboard shall contain only the prescribed contents.

(iii) all such boxes and cupboards shall be kept in charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the establishment.

(iv) a notice shall be affixed in every work-room stating the name of person in charge of the first-aid box or cupboard.

Where more than 300 workers are employed, there shall be provided and maintained an ambulance room or dispensary of the prescribed size.

B. Maintenance of a safety record book (Section- 90):

There shall be in every establishment wherein more than 25 workers work, be maintained compulsorily a safety record book and a safety board in the manner prescribed.

C Washing Facilities: (Section- 91)

In every establishment-

(i) adequate and suitable facilities for washing and bathing shall be provided and maintained for the use of the workers therein;

(ii) separate and adequately screened facilities shall be provided for the use of male and female workers; and

(iii) such facilities shall be conveniently accessible and shall be kept clean.

D). Canteens: (Section- 92)

(i) where more than 100 workers are ordinarily employed, an adequate canteen shall be provided for the use of workers.

(ii) there must be standard in respect of construction, accommodation, furniture and other equipment of the canteen.

E) Shelters, etc: (Section-93)

i) in every establishment where more than 50 workers are employed, adequate and suitable shelters or rest rooms, and a suitable lunch room with provision for drinking water shall be provided and maintained for the use of the workers

(ii) the shelters, rest rooms or lunch rooms shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(iii) in every establishment wherein more than 25 female workers are employed, separate rest rooms shall be provided for male and female workers and where less than 25 female workers work, the portion of the rest room for female workers shall be separated it by a curtain.

F)Rooms for Children: (Section-94)/Crèche

(i) in every establishment, where more than 40 women workers are employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(ii) such rooms shall provide adequate accommodation, be adequately lighted and ventilated and maintained in a clean and sanitary condition, and shall be under the charge of women trained or experienced in the care of children and infants.

(iii) such rooms shall be conveniently accessible to the mothers of the children accommodated therein and so far as is reasonably practicable it shall not be situated in close proximity to any part of the factory where obnoxious fumes, dust or odious are given off or in which excessively noisy processes are carried on.

WORKING HOURS

The labour Act- 2006 not only contains measures in regard to health, safety and welfare of the workers but it also contains certain measures to be adopted in the establishments with regard to working hours, holidays, compensatory holidays, periods, overtime work etc of the adult workers. The Labour Act-2006 restricts the working hours of workers. The detailed provisions are as follows:

A). Daily Hours: (Section- 100)

(i) no adult worker shall be required to work for more than 8 hours in a day.

(ii) however, with over time, an adult worker may work in an establishment for more than 9 hours, but not exceeding 10 hours in any day.

B) Weekly Hours: (Section- 102)

(i) no adult worker shall be required or allowed to work in an establishment for more than 48 hours in any week

(ii) however, with the over time, the total hours of work of an adult worker shall not exceed 60 hours in any week and on the average 56 hours per week in any year.

C) Weekly Holiday: (Section- 103)

(1) Every worker working in any establishment shall,

(a) in case of shop, commercial or industrial establishment, get one and half day, and in case of factories and other establishment one day as weekly holiday;

(b) in the case of road transport establishment, get one day of twenty four consecutive hours of weekly holiday and no deduction from wages is allowed for such leave.

'D) Compensatory Weekly Holiday: (Section- 104):

“Compensatory holiday is a holiday’ which is to be allowed to a worker in lieu of some due holiday on which the worker worked. Section 52 lays down provisions for compensatory holidays.

Where, as a result of the passing of an order or the making of a rule the provisions of this Code exempting an establishment or the workers therein from the provisions of section 103, a worker is deprived of any of the weekly holidays, he shall be allowed as soon as circumstances permit, compensated holidays of equal number to the holidays so deprived of.

E) Intervals for Rest or Meal: (Section- 101)

- (i) an adult worker working for more than six hours in anyone day must be allowed an interval of at least one hour during that day for rest or meal;
- (ii) an adult worker working for more than five hours in any one day must be allowed an interval of at least half an hour during that day for rest or meal;
- (iii) an adult worker working for more than eight and half hours must be given one hour interval for rest or two intervals of half- an-hour as mentioned above (ii).

F) Spread oven (Section- 105)

As to spread over section 105 provides that the working hours are required to be so spread over that no worker is required to stay on duty for more than ten and a half hours inclusive of his intervals in a day.

G. Night Shift (Section- 106)

A worker who is employed in a factory to work in a night shift and the shift extends beyond midnight then, in that case, the weekly or compensatory holiday to which he is entitled would mean holiday for 24 consecutive hours beginning from the end of his shift; and

- (ii) the following day for such a worker shall be deemed to be the period of twenty-four consecutive hours beginning from the end of his/her shift and the hours he/she has worked after midnight shall be counted towards the pervious day.

H) Restriction on cumulative hours of work on a vehicle (sec. 107) worker shall work or be allowed to work on a vehicle or more vehicles in excess of the period during which he may be lawfully employed under this Act.

I) Extra allowance for overtime: (Section-108)

Where a worker works in an establishment for more than 9 hours in any day or more than 48 hours in any week, he shall be paid at twice the rate his /her basic wages, dearness allowance for the extra hours of work done by him/her.

J) Restriction on working hours of women (Section-109)

No women shall, without her consent, be allowed to work in an establishment between 10pm and 6 am

WAGES AND ITS PAYMENT

Definition of Wages:

The term 'wages' has been given a very comprehensive definition in section 2 (45) of the Labour Act. It means all remuneration, expressed in terms of many of being expressed in terms of

money. It also includes and covers any bonus or other additional remuneration. However the following will not be included in the definition of wages:

- (a) the value of any house accommodation, supply of light, water, medical attendance or other amenity or of any service excluded by general or special order of the Government;
- (b) any contribution paid by the employment to any pension fund or provident fund;
- (c) any traveling allowance or the value of any traveling concession;
- d) Any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment.

Special Definition of Wages (Section- 120):

Section 120 states that unless there is anything repugnant in the subject or context, 'wages' means wages as defined in section 2(45), and includes:

- (a) any bonus or other additional remuneration payable as per the terms of employment;
- b) any remuneration payable in respect of holiday, leave or overtime work;
- (c) any remuneration payable under order of any court or under any award or settlement between the parties;
- (d) any sum payable under this Labour Act or any agreement by reason of termination of employment whether by way of discharge, retrenchment, retirement, removal, resignation, dismissal or otherwise.
- (e) any sum payable due to lay-off or suspension.

Responsibility for Payment of Wages:

Section 121 of the Labour Act specifies that the responsibility for payment of wages is primarily that of the employer. However, there are two provisions to this section which provide for two exceptions. These are as follows:

- (i) in the case of a worker employed by a contractor, the Chief Executive Officer, the manager or any other person responsible to the employer for the control and supervision of the establishment shall also be responsible for such payment.
- (ii) in the case of a worker employed by a contractor, if the contractor does not pay the wages, the wages shall be paid by the employer of the establishment and in that case the employer shall adjust such payment against the contractor.

Fixation of Wage-periods:

Section 122 provides that the person responsible for payment of wages under the Labour Act is to fix the wage periods in respect of which such wages shall be payable. However, statutory condition with regard to wage period is that no wage-period shall exceed one month. In other

words, wage cannot be fixed as payable quarterly, half-yearly or yearly but they may be payable daily, weekly, fortnightly or monthly.

Time of payment of wages:

Section 123 and 124 of the Labour Act provides rules relating to payment of wages which are as follows:

- (i) the wages of every worker shall be paid before the expiry of the seventh day after the last day of the wage-period in respect of which the wages are payable.
- (ii) where the employment of any person is terminated by retirement of employee or by the employer by way of retrenchment, discharge, removal, dismissal, or any other reason, the wages earned by him/her shall be paid within seven working days from the day on which his/her employment is terminated.
- (iii) all payments of wages shall be made on a working day.
- (iv) all wages shall pay in current coin or currency notes or in bank cheque.

Rules relating to deduction from Wages

Authorized Deduction:

Sub-section 1 of section 125 provides that deductions from the wages of an employed person shall be made only in accordance with the provisions of Labour Act and may be of the following kinds only, namely:

- (1) Fines imposed under section 25;
- (2) Deductions for absence from duty;
- (3) Deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he/she is required to account, where such damage or loss is directly attributable to his/her neglect or default;
- (4) Deductions for house-accommodation supplied by the employer;
- (5) Deductions for such amenities and services supplied by the Employer as the Government may authorize
- (6) Deductions for recovery of advances or for adjustment of overpayments of wages;
- (7) Deductions of income-tax payable by the employed person;
- (8) Deductions required to be made by order of a Court or other authority competent to make such order,
- (9) Deduction for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925 (XIX) of 1925) applies or any recognized provident fund

as defined in section 58A of the Income-Tax Ordinance, 1984 or any provident fund approved in this behalf by the Government, during the continuance of such approval;

(10) Deductions for payments to co-operative societies approved by the Government or to a scheme of insurance maintained by the Bangladesh Post Office; and

(11) Deductions made with the written authorization of the workers for the contribution of any fund or scheme constituted or framed by the employer, with the approval of the Government, for the welfare of the workers or the members of their families.

(12) Deductions for contribution to CBA Union through check of procedure.

The various deductions that are authorised under the Act are now discussed in detail.

1. Fines: (Section- 25)

(i) no fine can be imposed except for such acts and omissions approved by the Government and notified at the factory or establishment;

(ii) a notice specifying such acts and omissions shall be exhibited in the premises of the factory or establishment;

(iii) no fine shall be imposed on any employed person until he/she has been given an opportunity of showing cause against the fine;

(iv) the total amount of fine which may be imposed in any one wage-period shall not exceed an amount equal to ten Poisa in a Taka of the wages payable to him/her in respect of the wage-period;

(v) no fine shall be imposed on any employed person who is under the age of fifteen years;

(vi) no fine imposed on any employed person shall be recovered from him/her by installments or after the expiry of sixty days from the day on which it was imposed;

(vii) every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed;

(viii) all fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under the Act in prescribed form; and all such realisations shall be applied only to such purposes beneficial to the person employed in the factory or establishment as are approved by the described authority.

Special provision relating to fine (Section- 25):

The total amount of fine which may be imposed in any one wage period on any employed person shall not exceed an amount equal to one tenth of the wages payable to him/her in respect of the wage period.

(2) no fine shall be imposed on any employed person who is under the age of fifteen years.

(3) no fine imposed on any employed person shall be recovered from him/her by installments or after the expiry of sixty days from the day on which it was imposed.

(4) every fine shall be deemed to have been imposed on the day of the Act or omission in respect of which it was imposed.

(5) all fines and all realisations thereof shall be recorded by the employer in a prescribed register; and all such realisations shall be applied only to such purposes beneficial to the person employed in the establishment

Deductions for absence from duty: (Section- 126):

1) Deductions may be made under sub-section 125(2)(b) only on account of the absence of an employed person from the place or where by the terms of his/her employment he/she is required to work, absence being for the whole or any part of the period during which he/she is required to work.

(2) The amount of such deduction shall, in no case, exceed the amount of wages payable to the employed person in respect of the wage period for which the deduction is made.

(3) If ten or more workers acting in concerned absent themselves without any prior notice and without reasonable cause, such deduction from any such person may include such amount not exceeding his/her wages for eight days as may, by any such terms, be due to the employer in lieu of due notice.

(4) A worker shall be deemed to be absent from the place where he/she is required to work, if; although present in such place, he refused, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work. This shall apply to trade union officers also.

Deduction for damage or loss (Section- 127):

(1) A deduction under section (125(2)(c) shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the worker and shall not be made until the worker has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages in such form as may be prescribed.

Payment of unpaid wages in cases of death workers (Section- 131):

(1) Subject to other provisions of this Chapter, all amounts payable to a worker as wages shall, if such amounts could not or can not be paid on account of his/her death before payment or on account of his/her whereabouts not being known,--

(a) be paid to the person nominated by him/her in this behalf in accordance with the rules;

(b) where no such nomination has been made or where for any reasons such amounts can not be paid to the person so nominated, be deposited with the Labour Court who shall deal with the amounts so deposited in such manner as may be prescribed.

(2) Where, in accordance with the provisions of sub-section (1), all amounts payable to a worker as wages are paid by the employer to the person nominated by worker or are deposited with the Labour Court, the employer shall be discharged of his liability to pay those wages.

COMPENSATION: LIABILITY OF THE EMPLOYER AND RIGHT OF THE WORKER

The Employer's Liability to pay Compensation

Under chapter XII the liability to pay compensation lies with the employer for any personal injury caused to worker in an accident. This liability to pay compensation is limited and subject to the provisions of the Act. Under section 150 of the Labour Act an employer will be liable to pay compensation on the fulfillment of the following conditions:

- (i) there must be a personal injury caused to a worker;
- (ii) such a personal injury is caused in an accident;
- (iii) the accident has arisen out of and in the course of employment.
- (iv) the injury has resulted either in the death of the worker or in his/her total or partial disablement for a period exceeding four days.

Personal Injury:

The liability of the employer arises only when a personal injury is caused to a worker. The term has not been defined in the Act. However, the term personal injury is not necessarily confined to physical or bodily injury but includes within its ambit a nervous shock, a mental injury or strain which affects the health of the worker. In *Indian News Chronicle v Lazarus*, AIR 1951 (Punjab) 102 a worker had in the course of his duties, frequently to go into heating room and then to cooking plant where the temperature was kept very low. One night the worker went into a cooling room and thereafter feel ill and subsequently died of pneumonia. It was held that even though was no bodily -injury, the injury here was due to his working and going from heating room to cooling plant as part of his duty and so it was a personal injury for which compensation must be paid. Injury includes nervous shock caused by excitement or alarm resulting from fatal accident to a fellow worker. In *Larshmibai v Chairman, Port, Trustees, Bombay* (55 Bom L.R 924), the worker died on duty due to heart disease. The medical evidence proved that he was suffering from heart disease and he died as a result of strain caused upon his heart by the particular-type of work he was doing. It was held that it amounted to personal injury entitling to

compensation under the, Code Section 150(3) of the Code also states the contracting of an occupational disease by a workman shall be deemed to be an injury.

Freedom of Association and Right to Trade Union

The freedom of association has been the corner-stone of society. The general claim to freedom of association for political purposes and the specific claim of freedom of association for trade union purposes represent more recent developments. The right to 'form associations and unions' is treated as a separate right, with the same status as freedom of speech, assembly and the like. There are four-aspects of the freedom of association: First, the right necessarily connotes the right to enter into an agreement for the purpose of creating an association; Second, this right may be for any purpose whatsoever with regard to the right of association, so long as the purpose is not contrary to law; Third, like freedom of speech, the freedom of association cannot be made subject to previous authorization, as such authorization would mean an infringement of the right; Fourth, freedom of association implies the right to do any lawful act in furtherance of the purpose of the association (Khan, Hamiduddin, 197-198). From another point of view, the right of association has three characteristics: this right implies the power of doing a particular act which is the first important characteristic of this right. The second important characteristic of this right is that men act in combination. Men acting in combination will command greater power and resources and will exert greater pull and pressure in the spheres of social and economic life than men acting individually. The third characteristic of this right is the exercise of power. When a man acts individually, he does not exercise power; acting in combination means the exercise of power. Article 23(4) of the Universal Declaration of Human Rights, 1948 states that everyone has the right to form and to join trade unions for the protection of his/her interests. The preamble of the Constitution of the International Labour organization declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace. Apart from the Constitution of the ILO the Convention No. 87 of the ratified ILO Convention defines and describes the right of freedom of association, i.e. the right to form trade unions. These are as follows:

- (i) Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choice without previous authorization (Article 2);
- (ii) Workers' and employers' organization shall have the right to draw up their own Constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes (Article 3);

- (iii) The public authorities shall refrain from any interference which would restrict this right or impose the lawful exercise thereof (Article 3);
- (iv) Workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority (Article 4);
- (v) Workers' and employers' organizations shall have right to establish and join federations and confederations and any such organization federation or confederation shall have the right to affiliate with international organizations of workers and employers (Article 5);
- (vi) The law of the land shall not be such as to impair nor shall it be so applied as to impair the guarantees provided for in the Convention (Article 8);
- (vii) Member States of the ILO undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize (Article 11).

Convention No. 98 stipulates the following protection with regard to the Application of the Principles of the Right to Organize and to Bargain Collectively:

- (i) Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment (Article- 1);
- (ii) Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration (Article 2);
- (iii) Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise (Article 3).

Right to form Trade Union:

All the above international protection of right to trade union and freedom of association have been ratified by Bangladesh. Apart from international view point, the right to trade union and association is a fundamental right guaranteed by Article 38 of our Constitution. This Article states:

"Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order."

In line with this guarantee and also in accordance with the protect provided for in Convention 87 of the ILO Convention, section 176 of the Code lays down the right to trade unions and freedom of association. Workers and employers have been given the full right to establish and join association of their choice without permission from any authority to draw up their constitution, to elect their representatives in full freedom, to organize programmes, to establish their federations, confederations and international organization of workers and employees. The rights of Trade Unions and freedom of association as stipulated in section 176 are as follows:

- (i) Workers, without distinction whatsoever, shall have the right to form trade union primarily for the purpose of regulating the relations between workers and employers or workers and workers, subject to the constitution of the union concerned, to join associations of their own choice,
- (ii) employers, without distinction whatsoever, shall have the right to form trade union primarily for the purpose of regulating the relations between workers and employers or workers and workers and, subject to the constitution of the union concerned, to join associations of their own choice;
- (iii) trade unions of workers and employers shall have the right to establish and join federations and any such union or federation shall have the right to affiliate with international organization and confederation of workers' and employers' organizations and;
- (iv) Trade unions and employers' associations shall have the right to draw up their own constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.

Trade Unions: Workers' Forum and Employers' Forum

Workers associations or societies are by no means newer institutions. Their historical origins are older than the Industrial Revolution in Europe. But these were, in a sense, friendly societies or welfare associations (often with membership of both employers and employees) rather than trade unions. Generally trade union means an association of workers in one or more occupations to protect and advance the economic interest of the union member. The legal definition of trade union, though embraces associations of employers as well of employees, is usually disregarded by layman in this context. And modern legislation is increasingly prone to differentiate between Labour unions, on the one hand, and employers' and trade associations, on the other (Cole, G.D.H: "An Introduction to Trade Unions", pp. 13-15).

In traditional and in the sense of a layman's point of view it is therefore true that 'trade unions must be of the workers, for the workers, by the workers. However, as far as legal definition of a trade union is concerned, this is not true as the legal definition covers both the workers' union and employers union.

'Trade union usually comes into existence when workers feel that individually they are helpless to do anything for their betterment, for the interest of the industry in which they are employed or even for the nation. Leadership then may operate fruitfully. Recourse to collective efforts follows and generally results in some form of union organization.

Who can form Trade Union?

As per definition in section 2(15) and 176 both employer and workers have been given right to form trade unions under the Labour Act. There are no essential formalities or requirements in forming and organizing a trade association. It is only when a trade union desires to be registered as a trade union that certain requirements must be complied with.

Disqualifications for being a member or officer of a Trade Union:

Section 180 lays down that a person shall not be entitled to be

(i) elected as an officer or a member of a trade union if he/she has convicted of an offence involving morale turpitude or an offence under clause (d) of sub-section (2) of section 196 or section 298, and a period of two years has not elapsed since his/her release.

(ii) a member or officer of a trade union formed in an establishment or group of establishments if he is not, employed or engaged in that establishment or group of establishment, (this shall not apply to any federation of trade unions).

(iii) no worker or employer shall be entitled to enroll himself /herself as, or to continue to be, a member of more than one trade union at the same time (Section-193)

Penalty for dual membership of Trade Unions

Whoever enrolls himself/herself as, or continues to be, a member of more than one trade union at the same time shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand Taka, or with both (Section 300).

Definition of Trade Union

The term 'trade unions defined in section 2(15) as a union of workers or employers formed and registered under chapter XIII and includes federation of trade Unions.

Purpose or Object of a Trade Union

Trade Unions are voluntary organizations of workers formed to promote and protect their interests by collective action. Their membership is never compulsory. Any worker may or may not join the association. Since the membership is voluntary, the trade union must possess definite aims and object so that workers may join the union after full consideration of the aims and objects for which it has been formed. In the previous legislation the primary purpose of a trade union was outlined in the definition clause. These were between:

- (i) workmen and employers; or
- (ii) workmen and workmen; and
- (iii) employers and employers; and

Secondly, for imposing restrictive conditions on the conduct of any trade or business.

However, the present law under the Code does not state anything about the purpose of trade union apart from their primary purposes. A trade union may have following objectives:

- (i) The fundamental task of a trade union is of advancing the social and economic well-being of workers. Collective bargaining is the natural outcome of a Trade Union action in order to augment the welfare of its members and trade it represents. In individual bargaining the employer owing to his admittedly superior bargaining power, can take advantage of the weaker position of an individual worker. The objective of trade union, according to Sidney and Webb, is to take labour out of the competitive process;

- (ii) To secure speedy improvement of conditions of work, life and status of the workers in industry and society;
- (iii) To obtain for the workers various measures of social security including adequate provision in respect of accidents, maternity, sickness, old age and unemployment;
- (iv) To secure living wages with progressive improvement in the standard of life and to regulate hours and other conditions of work in keeping with the requirements of the workers in the matter of health, recreation and cultural development;
- (v) To secure suitable legislative enactments for ameliorating the condition of workers and to ensure proper enforcement of legislation for the protection and uplift of labour;
- (vi) The promotion of employees' economic interests is not the only goal of modern unions. Unions in developing countries have taken up educational, social and political activities to promote the cultural interests of the members and even of the nation, so that the new trade unions have generally minimised the problems of Government, employers and union themselves.
- (vii) Trade Unions provide a meaningful bridge between labour and capital. Labour is the wealth of the country; it should not be wasted at all in strikes and lock outs. There should be mutual adjustment between the labour and capital and this has been easier as a result of trade unions. The power-driven mills and the business houses of today offer employment to large body of workers, who work under the same management and often under similar terms and conditions of employment. Under the present system of mass production, the relationship between employers and employees has become indirect and impersonal, and the employers are hardly in a position to know the problems of each of their employees. This impersonal nature of work relationship and the similarity of working conditions for a large body of workers have largely contributed to the growth of trade unions whose main purpose is to negotiate with the employer have to regulate the conditions of employment of the workers.
- (viii) The growth of trade unionism has contributed to the awakening among wage earners of an awareness of their own dignity and importance. There is wider argument in favour of the workers having some share in the management and control of industries in which they are employed as well as the determination of their wages and working conditions.

1.1 Laws Protecting Women from Workplace Violence

Although there is no *specific* law protecting women from violence and maltreatment in places of employment *per se*, provisions under other laws enable workers to seek

remedies in the event of workplace violence. The Penal Code, 1860 for example, has provisions that may be effectively applied to redress violence of certain nature. Redress may be sought for disciplinary measures, like slapping and hitting, by factory authorities under the provision of voluntary causing of hurt under section 321 of the penal code provides punishment for causing aggravated forms of hurt or grievous hurt. Instances of grievous hurt include injury by an instrument, fire or deleterious substance. Workers may seek reprieve under these provisions in case of workplace injuries caused by heavy instruments, machinery and even fire, which is a common occurrence in Bangladeshi factories.

Workers can also avail of the provisions regarding wrongful restrain and wrongful confinement contained in Section 339 to 341 of The Penal Code. Section 339 provides measures against any person who voluntarily obstructs another or prevents that person from proceeding in any particular direction in which he wishes and in which he has a right to proceed. This is construed as wrongful restraint. In this regard, even a show of force that impedes a person's movement may amount to wrongful constraint. The provisions on wrongful confinement in Section 340 state that whoever wrongfully restrains any person in such a manner as to prevent him from going beyond certain circumscribing limits is said to be guilty of wrongfully confining a person. Wrongful confinement implies a total constraint. In this regard, detention by the use of physical force is not necessary - evidence of a mere application of moral force is sufficient to substantiate the claim. As such, even an attempt to wrongfully confine a person is punishable under Section 357 of The Penal Code.

Workers can have recourse to these various legal provisions in their attempt to evade restraining measures adopted by the factory authorities. The common practice in Bangladeshi factories, more particularly in the garment factories, is to lock the principal gates of the factory after all the workers have gone in. Apart from the fact that accidents leading to even death occur if workers are not free to make emergency exits as in the case of a fire, the practice of locking up workers without allowing them the freedom to go out is a transgression on their right to liberty. Extortion of a confession is also punishable under Section 348 of The Penal Code. Where are forced to confess to theft they did not commit or compelled to sign or put thumb impressions on documents waiving their right to benefit or where they are simply asked to sign a resignation letter under duress may be actionable under this provision .

Workers can also charge the management or the employer for using criminal force and assault. Section 353 of The Penal Code prescribes that whoever intentionally uses force to another without his consent (a) in order to commit any offence, or (b) with the intention of causing injury, fear or annoyance to the person against whom it is used. Section 351 of The Penal Code further describes that whoever makes any gesture or preparation intending or knowing that it is likely that such gesture or preparation will cause a person to apprehend that the former will use criminal force on the latter will be guilty of assault. Assault falls short of actual infliction of physical pain; nevertheless, the apprehension of imminent danger is enough to constitute a punishable offence. The intent to outrage the modesty of a woman and to dishonour a person falls within the ambit of Sections 354 and 355 of The Penal Code respectively. These legal provisions may be utilised by industrial workers when faced with any of the above-mentioned situation in their workplace.

Although The Penal Code applies to both sexes, there are provisions in other laws that protect women in particular from abuse and harassment. The “Nari O Shishu Nirjaton Domon(Bishes Bidhan) Ain 2000(in English “The Women and Children Repression Prevention (Special) Act 2000”) contains aspects that seek to protect women and children from different aspects of violence including abuse, exploitation, rape and sexual harassment. Like other women, women workers may also utilise these laws in their attempt to seek protection against workplace violence. Since the focus of the present study is not violence against women workers in their workplaces, the chapter does not deal extensively with the matter. It may however, be useful to note that the unprecedented entry of young women into wage employment has brought in its wake increased rate of violence against women in workplaces. Incidences of rape, acid throwing and sexual harassment are but some instances of violence that women workers are frequently subjected to. Studies conducted on garment women workers reveal that female workers are violated at the workplace on the streets and even at their residences. Female workers encounter acts ranging from insults, suggestive comments, bad language, demeaning remarks to unwelcome touching, grabbing and other physical assaults. There is an urgent need therefore, to ensure effective implementation of laws for the protection of women from such bestial acts in order that they feel secure in their various undertaking.¹

1.2 Impact of Protective Legislation on Women Workers

¹ Paul-Majumdar, Pratima, Violence and Hazards Suffered by Women in Wage Employment: A Case of Women Working in the Export-Oriented Garment Industry of Bangladesh', in *Empowerment. A Journal of Women for Women*, Vol.7, Dhaka, 2000, pp.-1-30, at p.2.

Although labour laws are quite extensive in terms of issues, there is a stark absence of the mention of women in the legal texts except where they explicitly lay down protective measures for them. This demonstrates a combination of paternalism and an attempt to ensure equality by providing additional rights. As rightly pointed out by Morris and Nott:

Legal paternalism arises where the law is used to restrict an individual's freedom in the interests of the individual. The promotion of equality, on the other hand, relies on laws which require that men and women are treated equally. However, when the law grants additional rights it does so because the individuals who benefit are seen to require more favourable treatment than others. Both paternalism and the granting of additional rights thus result in people being treated differently, whereas the promotion of equality requires the same treatment. There is, therefore, discrepancy and a political conflict in these particular uses of law.²

The labour laws in Bangladesh contain protective measures for women workers. By protective legislation is meant that specific legal provisions are coined with particular reference to supposedly vulnerable groups, like women and children. This is presumably be on account either of the inherent physical weakness of women and children or the normative ideology that seeks to isolate women from non-familial roles. Whatever may be the reason; women in industries are restricted from engaging in certain activities such as lifting heavy weights, night work and other dangerous work and are granted separate and special facilities before and after the birth of children.

The practice of providing women with special rights, however, is not above critique. The protectionist approach, as pointed out by Kapur and Copssman, sees women as different from men in that they are weaker, subordinate, and in need of protection. Any differential treatment of women by legislation is deemed to be in their best interests. This approach tends to essentialise difference, i.e., to take the existence of gender difference as natural and inevitable. There is so interrogation whatsoever of the basis of the difference, nor consideration of the impact of this kind of differential treatment.³

Since women are seem as weak and subordinate - and thereby in need of protection - women must be treated differently in law. Women's ostensibly natural differences are deployed to justify any differential treatment in law, and in effect, operate to

² Morris, Anne E., and Nott, Susan, *Working Women and the Law: Equality and Discrimination in Theory and Practice*, Routledge, London, 1991, p.29.

³ Kapur, Ratna and Cossman, Brenda, *Subversive Sites Feminist Engagements with Law in India*, Sage Publication, New Delhi ed. at., 1996, pp. 180-181

preclude any entitlement to equality. [Being firmly located in patriarchal discourses, this approach] does not problematise the way in which law treats women, nor does it consider women's subordinate status. [All that it does is to] call for greater enforcement of the law designed to protect women.⁴

It may be argued that the promotion of protective legislation merely relegates women to the inner domestic sphere by excluding them from formal employment. This is, in essence, a male strategy, designed more to circumscribe women's independence and autonomy rather than reform women's domestic role. Protective measures may actually be detrimental for women as employers may use them to legitimise unequal treatment to women workers. Moreover, this practice merely buttresses stereotypical notions that regard women as inferior to men and therefore, require special treatment and protection. Scholars have, in fact, stressed on the negative impact of protective legislation.⁵

However, protective legislation may be interpreted and applied in ways that would actually benefit women workers. For example, instead of outright prohibition of night work by women, employers could arrange special security measures for women during that period that would ensure their safety. If employers provided quarters within the factory premises where women workers could rest after working through a night shift (as and when necessary), it would save them the risk of traveling back home at night. Moreover, women workers should be given the opportunity to decide on their own whether they want to work at night or not. This would enable female workers having, for instance, the back-up support of their families can easily opt to stay back and work. This may reduce socially undesirable acts against women as well as provide them with an ability to maximise their working capacities. However, the issue of protective legislation should be addressed in context as it depends largely on the socio-economic scenario and practical circumstances of each country. While protective legislation may not necessarily be an answer to women workers' problems, doing away with the practice may also not be practical in view of prevalent nature of women's employment, economic conditions, social and cultural values of the country. Although protective legislation may indeed be a mixed blessing as it can operate to justify forms of discrimination against women by

⁴ Ibid., p-23

⁵ For details see, Walby, Sylvia, *Patriarchy at Work: Patriarchal and Capitalist Relations In Employment*, Plity Press, Cambridge, 1986; Donovan, Katherine, *Sexual Divisions in Law*, Wiedenfeld and Nicholson. London, 1986; Young, Kate, *Planning Development with Women: Making a World for Difference*, The MacMillan Press, London, 1993; Rohini, P.H., 'Women Workers in Manufacturing Industry in India: Problems and Possibilities' in Afshar, Haleh (ed.), *Women, Development and Survival in the Third World*, Longman, London ed. at., 1991 pp, 260-308.

excluding them from certain jobs and after certain hours, there is nevertheless considerable evidence that women are vulnerable to attacks when leaving work at night.⁶

It is evident from the discussion in this chapter that the labour laws of the country consist of comprehensive measures for the protection of workers' interests at various levels. Interestingly, specific reference to women workers appear only in the context of measures that have been incorporated having due regard to women's physical weakness and vulnerability. Accordingly, certain provisions like welfare reinforce women's inherent role as mothers and nurturers as is clear from *inter alia* the sections on childcare and maternity benefits. The same attitude is perceived in respect of protective measures that seek to restrict women from working beyond certain hours. In view of the rapid industrial development it appears that there is a need to reassess existing labour legislation in an attempt to streamline the gender perspectives within the law in order to ensure effective enforcement.

⁶ Young, Kate, *Planning Development with Women : Making a World of Difference*, Macmillan, London ed. at 1995, P-80.

Chapter-3

Statistical analysis for primary data.

After collecting primary data, it is necessary to process it in order to justify data for decision making purpose. To make a rational decision, it is also necessary to make sure that data have got **validity**. That means, process data need to apply some statistical methods(**like mean, mode, median, standard deviation, coefficient of variation(C.V), mean deviation, range etc.**) in order to make sure that collected data (**primary data**)are representing the whole population.

For doing this task, **SPSS** (Statistical Programme for Social Sciences)has been applied in primary data. **Output of SPSS is explained below** (output of SPSS shown in **appendix-4**):

It is known that, representative data have the following criteria:

- i) Standard deviation has to be small**
- ii) Mean deviation= 4/5 of standard deviation**
- iii) Coefficient of variation (C.V) is less for more consistent data than inconsistent data.**
- iv) Any test of significance is applicable i, e chi-square test is applicable in this case.**

Now it is necessary to justify whether the above mentioned criteria are applicable to processed data.

Firstly, it is seen from the **SPSS output** that standard deviation is **9.86** for “**Yes type answer**” and standard deviation is **8.36** for “**No type answer**” (**SPSS Output shown in appendix-4**) which are within a meaningful limit.

Secondly, Mean deviation=4/5 of standard deviation which is proved as under:

For **Yes type answer**, standard deviation is **9.86**

So, mean deviation= $4/5 \times 9.86$

$$= 7.888(\text{formula satisfied})$$

For **No type answer**, standard deviation is **8.36**

So, mean deviation= $4/5 \times 8.36$

$$= 6.688 (\text{formula satisfied})$$

Thirdly, coefficient of variation (C.V) for “**Yes type answer**” is 17.71 % (Standard deviation/mean x 100) and for “**No type answer**” coefficient of variation (C.V) is 16.88% (Standard deviation/mean x 100) shown in **appendix-4**. So, “**No type answer**” is more **consistent** than “**Yes type answer**”. That means, labour laws are not properly applied in the garments industry of Bangladesh. So, for improving the women workers’ status, labour laws need to be implemented properly.

Fourthly, SPSS programme applied “**Kruskal Wallis**” method of **chi-square test** for significant test purpose because “**Kruskal Wallis**” method is applicable where **variables are independent**. In primary data, “**Yes type answer**” and “**No type answer**” are independent to each other. In SPSS output (shown in **appendix-4**) it is seen that **chi-square computed value (chi-square computed value =65.11)** is greater than **critical value (table value= 58.32)**.

So, **Null Hypothesis (Ho) {there is no relation between labour laws application and women workers’ status in garments industry of Bangladesh}** is **rejected**. That means, there is a **positive relationship** between labour laws application and women workers’ status in garments industry of Bangladesh.

Chapter-4

Discussion and Analysis

(Application and compliance of labour laws)

4.1 Introduction

This chapter attempts to investigate the views of the beneficiaries regarding the application and compliance of labour laws. In particular it examines, presents and analyses their views on the following broad aspects of labour laws i.e. a) service matters, b) health and hygiene, c) Safety, d) welfare, e) working hours, f) leave and holidays, g) wages , h) maternity benefit and other benefits, i) compensation, j) union activities, and k) rules regarding retrenchment, discharge , dismissal and termination. This study was done with the help of field research, following questionnaire survey method.

The findings of the field research are presented below:

4.2 Service Matters

This section deals with service matters relating to appointment letters, maintenance of service books and records, existence of service rules and display of service rules in Bengali and English at a conspicuous area of work place.

The respondents were asked to narrate the state of receipt and issuance of appointment letter. The finding of this research is presented in Table No. 1.

Table No. 1

Receipt and issuance of appointment letter

Receipt and issuance of appointment letter	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	2362	45	2888	55
Union leaders	91	52	84	48
Employers	158	90	17	10

Table No. 1 depicts variation in responses of different categories of respondents. Only 45% workers responded positively with regard to issuance

of appointment letters, 52% union leaders have answered positively. Among employers, 90% responded positively about the issuance of appointment letter for their employees. Correlation between workers and union leaders is highly negative($r = -1$) .On the other hand correlation between union leaders and employers is highly positive ($r = +1$)

The respondents were then, inquired about the state of maintenance of service books and records by the employers. The findings are presented below in Table no. 2

Table 2
Maintenance of service Books and Records

Maintenance of service books and records	Responses					
	Yes		No		Don't Know	
Category of respondents	No.	%	No.	%	No.	%
Workers	2205	42	2625	50	420	8
Union leaders	95	54	80	46	0	0
Employers	161	92	14	8	0	0

This table reflects that the majority of workers and the union leader interviewed stated that service books and records are maintained in their respective work places. 50 percent of the workers stated that service books and records are not maintained and only 8 percent of the workers stated that they don't know about service books and records. There is a very small disparity between the responses of the workers and the union leaders. On the other hand, most of the employers (92%) have responded positively about maintenance of service books and records. Correlation between workers and union leaders is highly positive($r = 0.95$) and correlation between union leaders and employers is moderately positive($r = 0.67$).The responses of the respondents on the existence of service rules for workers are detailed as below in Table no.3

Table -3**Service rules for workers (dismissal & termination)**

Dismissal & termination is done as per service rules.	Responses					
	Yes		No		Don't Know	
Category of respondents	No.	%	No.	%	No.	%
Workers	1680	32	2888	55	682	13
Union leaders	86	49	89	51	0	0
Employers	149	85	26	15	0	0

This table represents that the majority of the workers stated that service rules for workers do not exist at their work place. Correlation between workers and union leaders is moderately positive ($r = 0.86$) and correlation between union leaders and employers is negative ($r = -0.61$). The findings regarding display of service rules in Bangla and English at a conspicuous area at work place are presented in table no.4

Table-4

Display of service rules at work place	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1522	29	3728	71
Union leaders	70	40	105	60
Employers	131	75	44	25

The above table shows that the display of service rules for workers in Bengali and English in a conspicuous place within factory premises is not a common practice in most of the cases. Correlation between workers and union leaders is highly positive ($r = +1$) and correlation between union leaders and employers is highly negative ($r = -1$)

4.3 Health and Hygiene

This section deals with provision of adequate light, air and ventilation at workroom, emission of dust and fumes during manufacturing, provision of

safe drinking water, provision of separate Latrines and Urinals for men and women.

Respondent's responses on adequate light, air and ventilation at work room are detailed below in table no.5

Table -5
Adequate light, air and ventilation at work room

Adequate light, air and ventilation at work room	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1837	35	3413	65
Union leaders	84	48	91	52
Employers	140	80	35	20

This table shows that the majority of the workers (65%) and union leaders (52%) stated that adequate light, air and ventilation in the work place are absent. Correlation between workers and union leaders is highly positive($r = +1$) and correlation between union leaders and employers is highly negative($r = -1$)

The responses of the respondents about availability of safe drinking water in the work place are given below in Table-6.

Table -6
Safe drinking water

Safe drinking water	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1837	35	3413	65
Union leaders	89	51	86	49
Employers	152	87	23	13

This table shows that the majority of the workers(65%) stated that safe drinking water is not provided to their work place. Correlation between workers and union leaders is highly negative ($r = -1$) and correlation between union leaders and employers is highly positive($r = +1$)

Respondents, response on the issue of separate latrines and Urinals for men and women are shown in Table -7

Table -7

Separate latrines and Urinals for men and women.

Separate Latrines and Urinals for men and women	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	3255	62	1995	38
Union leaders	121	69	54	31
Employers	156	89	19	11

The above table shows that the great majority of the workers (62%) and Union leaders (69%) stated that workers have separate latrines and urinals at their work place. Correlation among three groups is highly positive($r = +1$)

4.4 Safety

This section investigates the provision for adequate fire exits, non lifting of heavy items by the women workers etc.

Respondent's responses regarding the provision for adequate fire exits are presented below in Table -8.

Table -8.

Provision for adequate fire exits.

Provision for adequate fire exits	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1995	38	3255	62
Union leaders	89	51	86	49
Employers	137	78	38	22

The above table shows that majority of the workers (62%) have said that the existence of adequate fire exits is absent in their work place. There is a contradictory statement between workers and union leaders in the above question. Correlation between workers and union leaders is highly negative ($r = -1$) and correlation between union leaders and employers is highly positive ($r = +1$)

The investigation on lifting of heavy items by women workers, weighing more than 50lbs by the women workers are presented below in Table no.9

Table -9

Lifting of heavy items weighing more than 50lbs.

Lifting of heavy items weighing more than 50lbs.by women workers	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1943	37	3307	63
Union leaders	56	32	119	68
Employers	0	0	175	100

From the above table, it is seen that a great majority workers (63%) and Union leaders (68%) said that women workers are not compelled to weigh more than 50 lbs in their work place. Correlation among three groups is highly positive ($r = +1$)

4.5 Welfare

This section deals with welfare aspects of workers in their working environment such as, adequate and suitable washing and bathing facilities, crèche facilities, washroom for children adjoining the crèche.

The findings from the investigation regarding adequate and suitable washing and bathing facilities are presented in Table No. -10

Table -10
Adequate and suitable washing and bathing facilities

Adequate and suitable washing and bathing facilities	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	2362	45	2888	55
Union leaders	86	49	89	51
Employers	144	82	31	18

From the above table, it is seen that most of the employers (82%) have replied that they do provide adequate and suitable washing and bathing facilities for their employees, more than half workers (55%) have stated that they do not have adequate and suitable washing and bathing facilities at their work places. Correlation between workers and union leaders is highly positive($r = +1$) and correlation between union leaders and employers is highly negative($r = -1$)

The findings on the enjoyment of crèche facilities at workplace are detailed below in Table -11

Table -11
Children room(Crèche) facilities at the work place

Children room(Crèche) facilities at the work place	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1155	22	4095	78
Union leaders	66	38	109	62
Employers	75	43	100	57

Most of the workers (78%), Union leaders (62%) and employers (57%) have responded negatively about the existence of crèche facilities work place. A majority of women workers think that their children are safer at their home

than crèche at the factory. So, employers said that it was not demanded by the majority workers. . Correlation among three groups is highly positive($r = +1$)

Table -12
Washroom for children adjoining the crèche

Washroom for children adjoining the crèche	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1155	22	4095	78
Union leaders	63	36	112	64
Employers	82	47	93	53

From the above table, it is seen that most of the workers (78%), Union leaders (64%) and employers (53%) have responded negatively about the existence of washroom for children adjoining the crèche. Correlation among three groups is highly positive($r = +1$)

4.6 Working hours

The respondent's responses on daily hours of work are presented below in table No. 13

Table-13
Daily working hours

Hours of working	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Eight hours	2258	43	105	60	142	81
Nine hours	525	10	14	8	9	5
Ten hours	1995	38	53	30	19	11
Others	472	9	3	2	5	3

From the above table, it is seen that most of the Union Leaders (60%) and employers (81%) have said eight hours of daily work. Correlation among three groups is highly positive($r = 0.93$)

Table-14
Duration of interval for rest and meal

Duration of interval for rest and meal	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Half an hour	1523	29	26	15	0	0
One hour	3412	65	149	85	175	100
Other	315	6	0	0	0	0

From the above the table it is seen that more than half of the workers (65%) and most of the union leaders (85%) said that they get one hour interval for rest and meal during working hours. Correlation between workers and union leaders is highly positive($r = 0.97$) and correlation between union leaders and employers is also highly positive ($r = 0.99$)

4.7 Leave and Holidays

This section deals with enjoyment of various kinds of leave and holidays, which are enjoyed by the workers. These include casual leave, sick leave, and festival holidays.

The respondent's responses regarding enjoyment of casual leave by the workers are presented below:

Table -15
Enjoyment of Casual leave

Enjoyment of Casual leave	Responses							
	Yes		No		Don't Know		Not sure	
Category respondents	No.	%	No.	%	No.	%	No	%
Workers	2258	43	2520	48	263	5	210	4
Union leaders	114	65	44	25	7	4	11	6
Employers	172	98	3	2	0	0	0	0

From the above table it is seen that majority workers (57%), replied that they do not enjoy casual leave. Responses between workers and union leaders are contradictory because majority union leaders (65%) replied that they enjoy casual leave and almost all the employers (98%) replied that workers enjoy casual leave. Correlation between workers and union leaders is highly negative ($r = -1$) and correlation between union leaders and employers is highly positive ($r = +1$)

Table -16
Days of Casual leave enjoyment

Days of Casual leave enjoyment	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Five days	472	9	3	2	0	0
Ten days	2468	47	172	98	175	100
Fifteen days	105	2	0	0	0	0
Not sure	1575	30	0	0	0	0
Other days	630	12	0	0	0	0

From the above table it is seen that a great majority of union leaders (98%) replied that they enjoy Ten days casual leave, but 47% workers replied that they enjoy casual leave ten days. Correlation between workers and union leaders is moderately positive ($r = 0.82$) and correlation between union leaders and employers is also highly positive ($r = +1$)

Table-17
Enjoyment of sick leave

Enjoyment of sick leave	Responses							
	Yes		No		Don't Know		Not sure	
	No.	%	No.	%	No.	%	No.	%
Category respondents	No.	%	No.	%	No.	%	No.	%
Workers	2678	51	2362	45	210	4	0	0
Union leaders	114	65	61	35	0	0	0	0
Employers	156	89	19	11	0	0	0	0

From the above table it is seen that a small majority of the workers (51%) and majority union leaders (65%) stated that they enjoy sick leave. Correlation between workers and union leaders is highly positive ($r = 0.94$) and correlation between union leaders and employers is also highly positive ($r = 0.90$)

Table -18
Number of days of sick leave enjoyment

Number of days of sick leave enjoyment	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Five days	0	0	0	0	0	0
Ten days	893	17	14	8	0	0
Fourteen days	2205	42	121	69	175	100
Twenty days	0	0	0	0	0	0
Not Sure	1050	20	21	12	0	0
Don't Know	1102	21	19	11	0	0

From the above table, it is seen that 42% workers replied that they enjoy 14 days sick leave. But 69% union leaders said that sick leave was 14 days. Correlation between workers and union leaders is highly positive ($r = 0.90$) and correlation between union leaders and employers is also highly positive ($r = 0.98$)

Table -19
Sick leave with full pay, partial pay or without pay.

Sick leave with full pay, partial pay or without pay.	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Full pay	2258	43	114	65	175	100
Partial pay	945	18	17	10	0	0
Without pay	2047	39	44	25	0	0

A majority of union leaders (65%) replied that they get sick leave with full pay but only 43% workers said that they get sick leave with full pay. Correlation between workers and union leaders is moderately positive ($r = 0.81$) and correlation between union leaders and employers is highly positive ($r = 0.97$)

Table -20

Enjoyment of festival holiday

Enjoyment of festival holiday	Responses					
	Yes		No		Not sure	
Category respondents	No.	%	No.	%	No.	%
Workers	2678	51	2205	42	367	7
Union leaders	100	57	75	43	0	0
Employers	175	100	0	0	0	0

Majority of the workers (51%), union leaders (57%) and all the employers (100%) replied positively about the enjoyment of festival holiday. Correlation between workers and union leaders is highly positive ($r = 0.99$) and correlation between union leaders and employers is positive ($r = 0.69$)

Table -21

Number of days of enjoyment of festival holidays.

Number of days of enjoyment of festival holidays.	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Five days	1207	23	5	3	0	0
Ten days	2573	49	166	95	175	100
Fourteen days	105	2	0	0	0	0
Twenty days	0	0	0	0	0	0
Not sure	1365	26	4	2	0	0

The majority of the union leaders (95%) have replied that they enjoy ten days festival holidays. But only 49% workers said that they enjoy ten days festival holidays. Correlation between workers and union leaders is moderately positive ($r = 0.83$) and correlation between union leaders and employers is highly positive ($r = +1$)

4.8 Wages

This section deals with regular receipt and payment of wages, receipt and payment of minimum wages as stipulated by law, variation of wages by gender, provision of extra payment for working overtime.

The investigation regarding wages started with question of receipt and payment of wages. The findings are presented in table-22.

Table -22

Regular receipt and payment of wages

Regular receipt and payment of wages	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1995	38	3255	62
Union leaders	86	49	89	51
Employers	117	67	58	33

The above table shows that a majority of the workers (62%) said that they do not get wages regularly. On the other hand, 49% union leaders said that they get wages regularly. Correlation between workers and union leaders is highly positive ($r = +1$) and correlation between union leaders and employers is highly negative ($r = -1$)

Table -23

Receipt and payment of minimum wages as stipulated by the law.

Receipt and payment of minimum wages as stipulated by the law.	Responses							
	Yes		No		Don't Know		Not sure	
Category respondents	No.	%	No.	%	No.	%	No.	%
Workers	1050	20	2888	55	525	10	787	15
Union leaders	91	52	84	48	0	0	0	0
Employers	166	95	9	5	0	0	0	0

This table shows that only 20% workers said that they get minimum wages as stipulated by law. There is a contradictory reply between workers and union leaders, 55% union leaders said that they get minimum wages as stipulated by the law. Correlation between workers and union leaders is highly negative($r = -1$) and correlation between union leaders and employers is highly positive($r = +1$)

Table -24
Wages Discriminations based on sex

Variation in wages because of sex ground	Responses							
	Yes		No		Don't Know		Not sure	
Category respondents	No.	%	No.	%	No.	%	No.	%
Workers	2100	40	2730	52	262	5	158	3
Union leaders	26	15	140	80	5	3	4	2
Employers	12	7	159	91	4	2	0	0

A majority of workers (52%) union leaders (80%) and employers (91%) have said that wages for same work do not vary because of sex ground. A good number of workers (40%) and union leaders (15%) admitted that there is small difference of wages between male and female worker. Correlation among three groups is highly positive($r = +1$)

Table -25
Extra payment for working overtime.

Do you get paid extra for working overtime?	Responses					
	Yes		No		Not applicable	
Category respondents	No.	%	No.	%	No.	%
Workers	3255	62	1628	31	367	7
Union leaders	126	72	49	28	0	0
Employers	166	195	9	5	0	0

The majority of the workers (62%) and majority of the union leaders (72%) said that they get over time for working extra work for the company. Correlation between workers and union leaders is highly positive ($r = 0.99$) and correlation between union leaders and employers is also highly positive ($r = 0.94$)

4.9 Maternity benefit and other privileges

This section highlighted on maternity benefit i.e leave, prohibition of joining at work for women workers during 8 weeks immediately following the delivery of a baby, prohibition of dismissal of women workers during statutory period of maternity leave.

The respondent's responses on enjoyment of maternity benefit are shown in table no.-26.

Table -26
Enjoyment of maternity benefit.

Enjoyment of maternity leave	Responses					
	Yes		No		Don't Know	
Category respondents	No.	%	No.	%	No.	%
Workers	2520	48	2730	52	0	0
Union leaders	98	56	77	44	0	0
Employers	175	100	0	0	0	0

Only 48% of the workers and the majority of the union leader (56%) have responded positively about the provision regarding maternity leave. But a good number of workers (52%) replied negatively. Correlation between workers and union leaders is highly negative ($r = -1$) and correlation between union leaders and employers is highly positive ($r = +1$)

The workers and union leaders, who replied positively, were further asked to indicate the number of days they enjoy as maternity leave. Their responses are shown as under.

Table -27
Number of days of enjoyment of maternity leave.

Number of days of enjoyment of maternity leave.	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
One month	0	0	0	0	0	0
Two months	0	0	0	0	0	0
Three months	3728	71	105	60	44	25
Four months	1312	25	61	35	131	75
Not sure	210	4	9	5	0	0

The above table shows that majority of the workers (71%), union leaders (60%) have stated that they get three months maternity leave. Only 25% workers and 35% union leaders said that they get four months maternity leave. It is understood that majority of the garments factories are yet to implement 4 months maternity leave as per revised labour laws of 2006. Correlation between workers and union leaders is positive ($r = 0.61$) and correlation between union leaders and employers is also positive ($r = 0.61$)

Table -28
Maternity leave with full pay or without pay

Maternity leave with full pay , Partial pay or without pay	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Full pay	3413	65	131	75	175	100
Without pay	1365	26	44	25	0	0
Unable to answer	262	5	0	0	0	0
Not sure	210	4	0	0	0	0

A majority of the workers (65%), union leaders (75%) all the employers (100%) have replied that women workers enjoy maternity leave with full pay.

Correlation between workers and union leaders is highly positive ($r = +1$) and correlation between union leaders and employers is also highly positive ($r = 0.94$)

The investigation regarding prohibition of work by women workers during 8 weeks immediately following delivery are as follows:

Table -29

Prohibition of work by women workers during 8 weeks immediately following delivery:

Work by women workers during 8 weeks immediately following delivery.	Responses							
	Yes		No		Don't Know		Not sure	
Category respondents	No.	%	No.	%	No.	%	No	%
Workers	1365	26	2363	45	945	18	577	11
Union leaders	82	47	93	53	0	0	0	0
Employers	3	2	172	98	0	0	0	0

A good number of workers (45%), union leader (53%) and almost all the employers (98%) said that they are not required to work during 8 weeks immediately following the delivery of a baby and a significant number of workers (29%) expressed their ignorance about it.

Correlation between workers and union leaders is moderately positive ($r = 0.87$) and correlation between union leaders and employers is positive ($r = 0.65$)

5.0 Compensation

This section deals with compensation for injuries sustained during work, entitlement of medical examination within three days of notifying the employer, consent of women worker in case of medical examination by a doctor.

The respondent's responses regarding compensation for injuries sustained during work are presented in table No. 30.

Table -30
Compensation for injuries sustained during work.

Compensation for injuries sustained during work.	Responses					
	Yes		No		Not applicable	
Category respondents	No.	%	No.	%	No.	%
Workers	2258	43	2730	52	262	5
Union leaders	82	47	93	53	0	0
Employers	175	100	0	0	0	0

A good number of workers (52%), union leaders (53%) said that they do not get such compensation. But all the employers (100%) replied positively.

Correlation between workers and union leaders is highly positive ($r = 0.98$) and correlation between union leaders and employers is poorly positive ($r = 0.41$)

On the issue of entitlement of medical examination with three days of notifying the employer, the respondents replied as follow in table no. 31.

Table No. 31
Entitlement of medical examination within three days of notifying the employer.

Compensation for injuries sustained during work	Responses							
	Yes		No		Don't Know		Not sure	
Category respondents	No.	%	No.	%	No.	%	No.	%
Workers	2730	52	2048	39	210	4	262	5
Union leaders	103	59	72	41	0	0	0	0
Employers	149	85	26	15	0	0	0	0

From the above table it is seen that most of the workers (52%), union leaders (59%) and great majority of the employers (85%) have responded positively when asked about workers entitlement to medical examination within three days of notifying the employers.

Correlation between workers and union leaders is highly positive ($r = 0.99$) and correlation between union leaders and employers is moderately positive ($r = 0.86$)

The result of investigation on obtaining consent of women workers in case of medical examination by a male doctor is presented as follow in table no. 32.

Table -32
Consent of women worker in case of medical examination by a male doctor

Consent of women worker in case of medical examination by a male doctor	Responses					
	Yes		No		Not applicable	
Category respondents	No.	%	No.	%	No.	%
Workers	3098	59	1995	38	157	3
Union leaders	114	65	61	35	0	0
Employers	175	100	0	0	0	0

A majority of the union leaders (65%), workers (59%) and all of the employers (100%) have stated that their consent is taken before medical examination by a male doctor. Correlation between workers and union leaders is highly positive ($r = 0.96$) and correlation between union leaders and employers is moderately positive ($r = 0.84$)

When the respondents' were requested to indicate, if such examination of women workers are conducted in the presence of another women or alone, their responses were as follow in table no. 33

Table -33

Medical examination conducted in the presence of another women or alone.

Medical examination conducted in the presence of another women or alone.	Respondents					
	Workers		Union Leaders		Employers	
	No.	%	No.	%	No.	%
Alone	788	15	9	5	0	0
In presence of another women	4147	79	166	95	175	100
Unable to answer	315	6	0	0	0	0

A great majority of workers (79%), union leaders (95%) and all of employers have replied positively about the above question.

Correlation among three groups is highly positive($r = 0.99$)

5.2 Union Activities

This section deals with admissibility of trade union and usefulness of trade union activities.

Table -34

Admissibility of Trade Unions

Admissibility of Trade Unions	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1522	29	3728	71
Union leaders	93	53	82	47
Employers	131	75	44	25

From the above table it is seen that the majority of the workers (71%) said that trade union activities are not admissible in their work place. On the other hand, majority of union leaders (53%) and employers (75%) said that trade union activities are admissible in their factories. This answer shows a clear contradictory statement between workers and trade union leaders.

Correlation between workers and union leaders is highly negative($r = -1$) and correlation between union leaders and employers is highly positive($r = +1$)

Table -35

Active participation in trade union activities

Active participation in trade union activities	Responses			
	Yes		No	
Category of respondents	No.	%	No.	%
Workers	1312	25	3938	75
Union leaders	89	51	86	49
Employers	128	73	47	27

From the above table it is seen that a great majority of the workers (75%) have stated that they are not participating actively in trade union activities. But a majority of the union leaders (51%) and employers (73%) replied positively to the above question. This result shows that there are no organized and truly elected trade union activities in the garments factories in Bangladesh.

Correlation between workers and union leaders is highly negative($r = -1$) and correlation between union leaders and employers is highly positive($r = +1$)

Chapter -5

Findings and Recommendations

Some of the major field research findings are highlighted below:

1).Majority of Workers (55%) and Union Leaders (51%) opined that the existence of adequate washing and bathing facilities are absent in their work places. The responses of Employers were contradictory to that of Workers and Union Leaders.

2) A great majority of the Workers (78%), Union Leaders (62%) and Employers (57%) have admitted to not having children raising room (crèche) facilities at their work place. Women Workers felt that their children were safer at home than in the crèche in factory and therefore, preferred to leave their children at home. So, the Employers are not thinking it very necessary to set up Children room (Crèche) facilities in the work place.

3.) Majority Workers (62%) have said that they do not receive their wages regularly. This has been affirmed by 49% of the Union Leaders and majority of the Employers (67%). So, it is clearly understood that **wages are not paid to the workers on time.**

4.) A great majority of Garments Factories(80%) yet to implement **minimum wages** as stipulated by the **revised Labour Laws of 2006 which was enacted by the National Parliament of Bangladesh in 2006.**

5) A great majority of Garment Factories are poorly structured. That means, about 80% factories do not have wider stair for safe exit of workers in case of fire or any other accidents.

6) A great majority of the Workers (57%) said that they did not receive compensation for injuries sustained during work. A good number of Union Leaders (53%) said that workers were not compensated for injuries at work.

7) A good number of Women Workers (40%) alleged that they faced sex discrimination in respect of wages. This was admitted by the Union Leaders (15%) and Employers (7%). So, it is clear that there is wage discrimination between **male workers and female workers** in the Garment Industry in Bangladesh.

8) It was found during **survey** that some Workers and Union Leaders did not have **clear knowledge** about the days of entitlement of **Casual leave, Sick leave, and Festival leave**. That means, workers do not have clear knowledge of Labour Laws.

9) In the **field research**, it was found only **11% Women Union Leaders** (Out of 175 factories, it was found only 20 women union leaders) which shows that Women Workers' participation in **Trade Union activities** is very insignificant.

10) It was found in the field research that Labour-Management Relations are not good in Garments Industry in Bangladesh as most of the tables show **negative correlation between Workers and Employers**.

11) It was learnt that maximum **Trade Union Leaders** were selected by the **Employers**. That means, proper **Trade Union** activities are not existed in the Garments Industry in Bangladesh.

Recommendations

This section highlights the **recommendations** based on the findings of the present study. Some recommendations are directly related with the Government and some are related with Trade Union functions and leadership and some are collective measures to improve the Labour Management Relations. So, recommendations are categorised in terms of **concerned implementing authority**.

Implementing Authority: The Government of Bangladesh.

1. It was complained that “**Inspector of Factories**” rarely visit factory to investigate the malpractices done by the employers. On the other hand, “**Inspector of Factory**” accepted the allegation as complained by the workers and he (**Inspector of Factory**) said that he does not have sufficient number of manpower to perform his duties properly. So, concerned Ministry (**Ministry of labour and Manpower**) should take all necessary measures to activate the functions of “**Inspector of the Factory**”.
2. There should be a **steering committee** within the Ministry of Labour and Manpower comprising members representing from Government, Employers, Union Leaders, National Federation of Trade Union, NGOs and the civil society to facilitate better implementation of Labour Laws, policy planning and advocacy.
3. Non-compliance of Labour Laws must be dealt with by **strict penalties**. Under the current system the punishment for employers for violation of Labour Laws is meted

out by a mere imposition of fine, which is so **nominal**, that it has no deterrent effect on **Employers' misconduct**. As for example it is clearly stated in the Labour Laws that “**No notice of dismissal given without sufficient cause by an Employer to a Woman Worker within a period of SIX months before her delivery in order to ensure maternity benefits.**” But an employer who contravenes the provision of this Act is punishable with a fine of TK.5000/ or Three months imprisonment or both. So, this Act needs to make amendment with severe punishment provision.

4. Decision-makers and policy planners have traditionally neglected to address Women Workers' right in their proper perspectives. Women's issues, particularly **women's economic rights**, need to be given proper emphasis in policy planning which have hitherto been largely ignored.
5. In the Labour Laws, it is clearly mentioned that workers' **minimum wages shall be revised every two years**. But unfortunately minimum wages are not revised after five years even; on the other hand, 80% Garments Factories yet to implement **minimum wages** which was enacted in the National Parliament of Bangladesh in 2006 .So, Government (the **Ministry of Labour and Manpower**) should expedite factory inspection by appointing more “**Factory Inspector**” in case of necessary. It is believed that this will help to improve labour productivity and resolve Labour Unrest in this vital sector.
6. Government can declare **Employers Charter** for motivating the Employers to comply with the Labour Laws. This could be done by **reducing corporate tax** for the Employers those who will be enlisted in the “**Employers' Charter**” as declared by the concerned **Ministry**. This “**Employers' Charter**” will be made by the **Task Force comprising members from concerned Ministry and Civil Society based on the compliance of Labour Laws by the Industry**. Task Force can give the appointment of “**Social Auditors**” for conducting Social Research and based on the findings of the “**Social Auditors**”, Task Force can prepare the list of “**Employers Charter**”.

Implementing Authority: Joint collaboration

This authority will comprise of all the **stakeholders** i, e Government, Employers, Trade Unions, NGOs, and Civil Society. It is known that joint initiative gives the benefit of **Synergy effect**. Because Government or Employers, or Trade Union alone can not solve this **social and economic problem** but when joint initiative and policy matters are taken organisedly then it becomes easier to address the problem and to find out the way of

solution for amicable settlement of any long lasting disputes and hence bring smooth functioning of industrial activities in the economy. So, recommendations are given below **for kind perusal and necessary actions:**

1. The Government should undertake collaborative initiatives in their attempts to educate, train and monitor **workers' rights** especially Women Workers rights, entitlements, problems and prospects. In this regard, the Government needs to develop schemes to give orientation programme to both Workers and Employers in order to educate them about Labour Laws and Employment Laws and Regulations. Need based training should be given to all relevant personnel. This initiative could be undertaken by joint collaboration of the Government Agencies, National Federation of Trade Unions, NGOs and Civil Society.
2. Government, NGOs and members of the Civil Society may engage in advocacy initiatives in order to promote and create awareness of Labour Rights especially Women Workers' rights and Employers obligations. This could be promoted by the National Press Media like **Bangladesh Television, Bangladesh Betar and Private Medias like T.V, Newspapers etc. This could also be done by circulating booklets, brochures, posters** and so on by highlighting the rights and entitlements of the Workers especially Women Workers and Employers' obligations.

Folk stars could be another useful medium for effective dissemination of information to the workers and general public

3. **Introduction of two-shift working system:**

Two-shift working system is very important for removing the hazards from the working environment. At the present working system weekly holiday is not practiced in the Garments Industry in Bangladesh which violates human rights and creates hazards in the working places. Most of the surveyed Employers reported that introduction of two-shift working system is not possible due to the shortage of skilled labour force.

So, for overcoming the shortage of skilled labour force it is recommended to undertake training programme on Garments Works for the newly recruited Workers and for young unemployment people by the BGMEA run "Fashion Design and Apparels Institute" at a minimum cost or without any charge in order to ensure Skilled Labour Force in the Industry. In this case joint efforts from concerned Ministry and concerned Industry are needed.

Further research:

Due to the resource **constraints** (time and money) it was not possible to survey **Labour Court** in order to justify the responses of the Workers and Labour Union regarding dismissal and termination (shown in the **Table no.3, Chapter-4**). So, this limitation can be overcome by conducting further research by including the Labour Court within the purview of this research by **the researcher(s) in future**.

Conclusion:

It is believed that **Workers** are the **part and parcel of the Garments Industry**. Both the Workers and Employers joint efforts can make this Industry more productive and more profitable. So, **Employers** should not think that Workers are their enemy. If workers **basic rights** are implemented then it will yield many **unseen benefits** (more productivity, less Labour Turn-over, relations improvement between **Workers & Employers** etc) for the industry. It is pertinent to add **Herzberg's two factor theory** (**Hygiene factor** i.e. **Basic needs** and **Motivators**) in this case. According to **Herzberg**, without fulfilling **Hygiene factor**, **Motivators** will not work. **In this case Labour Laws are Hygiene factor without which no Motivators will work.**

It is important to mention here that **Garments Industry** is a very interesting sector of production because it is composed of **value addition**. The workers are adding these values to the **Garments Industry**. But unfortunately they are not getting any share of this **value addition**. They are human beings and so they need safe and secured working conditions, health security, safe and secured housing, safe and secured transport system, so on and so forth. **The Employers have to treat Workers as value addition and treat them with far more respect than that they get now.** It is a logical argument that if the Workers are the reason for the **productivity and prosperity** of the Garment Industry then why not they can be made a partner of this Industry. If this partnership relationship can be ensured then workers productivity will increase.

Finally, it should be borne in mind that no recommendations could be successfully implemented if all the **stakeholders** (**Employers, Workers, Trade Union, and Government of Bangladesh**) do not work together.

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Appendix - I

Questionnaire for Workers

1. Sex : Female Male
2. Marital Status : Married Single Divorced
Separated Widow
3. Education : Primary SSC H.S.C
Graduate Below Primary
4. Type of industry : Garments Textile Others
5. Status of Employment : Apprentice Casual
Permanent Badli

The Application, Compliance and Practice of Labour Laws

a. Service Rules/Appointments

1. Did you receive any appointment letter? Yes No
2. Are service books and records maintained? Yes No Don't Know
3. Are there rules displayed (in Bangla and English) in a conspicuous place at your workplace for your knowledge : Yes No Don't Know

b. Health and Hygiene

4. Do you get adequate light, air and ventilation in your workroom? Yes No
5. Do you experience discomfort as a result of dust and fumes emitted during the process of manufacturing? Yes No Not applicable
6. Is there any arrangement for safe drinking water? Yes No
7. Is there any arrangement for cooled drinking water during summer, i.e., 1 April to 30 September? Yes No
8. Is there any arrangement for separate latrines and urinals for men and women workers? Yes No
9. Is there a provision for one latrine for every 25 women workers? Yes No

C. Safety

10. Do your factory/ industry provide adequate fire exits?
Yes No
11. Do women workers lift heavy items weighing more than 50 lbs.?
Yes No
12. Do women workers lift, carry or move, by hand or on head, any material, article. tools or applicable while they are pregnant.
Yes No

D. Welfare

13. Do you have adequate and suitable washing and bathing facilities in you factory/industry?
Yes No

14. Do you have crèche facilities in you factory/industry?

Yes No

14. (i) If answer is no please mention the reason

15. Do you have provisions for a washroom for children adjoining the crèche in your factory/industry?

Yes No

e. Working Hours

16. How many hours do you work?

04 hours 06 hours 08 hours 09 hours 10 hours
12 hours 14 hours 16 hours other

17. Do you work beyond 8 pm?

Yes No

17. (i) If yes, until when?

9 pm 10 pm 11 pm other

18. Do you get any interval for rest or a meal during working hours?

Yes No

18. (i) If yes, for how long?

Half hour One hour

f. Leave and Holidays

19. Do you enjoy casual leave?

Yes No Don't Know Not Sure

19. (i) If yes, is it for:

5 days 10 days 15 days other days

19. (ii) If yes, is it with :

Full pay Partial pay Without pay

20. Do you enjoy festival holidays?

Yes No Don't know Not sure

20. (i) If yes, is it for :

5 days 10 days 14 days 20 days
other days Don't know Not sure

20. (ii) If yes, is it with :

Full pay Partial pay Without pay

21 Do women workers get maternity leave?

Yes No Don't know

21. (i) If yes, it is for :

- 1 month 2 months 3 months 4 months
Don't know Not sure

21. (ii) If yes, is it with :

- Full pay Without pay Don't know Not sure

g. Wages

22. Do you receive wages regularly?

- Yes No

23. On which day you get paid? On the

- 5th 7th 10th 15th Other day of the month

23. (i) Please mention about other day of the month

24. Do you receive minimum wages as stipulated by the law?

- Yes No Don't know Not sure

25. Do the wages for the same work vary according to the sex of the workers?

- Yes No Don't know Not sure

26. Do you get paid extra for working overtime?

- Yes No Not applicable

26. (i) If yes, under what criteria ?

- As per law Arbitrarily Lump sum Other

26 (ii) If answer is other, please mention

h. Maternity Benefit and Other Privileges

27. Are maternity benefits provided by your company ?

- Yes No Don't know Not sure

27. (i) If yes, for how long?

- 15 days 1 month 2 months 3 months
4 months Not sure

28. Has there been any dismissal of women workers during the statutory period of maternity leave i.e. 16 weeks?

- Yes No Don't know Not sure

i. Compensation

29. Do you receive compensation for injuries sustained during work?

- Yes No Not applicable

30. In case of accidents are you entitled to medical examination within three days of notifying the employer of the occurrence as prescribed by law?
Yes No Don't know Not sure Not applicable
31. Is your consent sought incase of medical examination by a male practitioner following an accident.
Yes No
- 31 (i) Such medical examinations are conducted :
Alone In the presence of another woman Unable to answer

j. Union Activities

32. Are trade unions allowed in your factory/industry?
Yes No
32. (i) If answer is yes, are you active?
Yes No
33. Are union activities beneficial for you?
Yes No Not sure

K. Rules Regarding Retrenchment, Discharge, Dismissal and Termination.

34. Are workers who have been in continuous service for not less than a year retrenched without giving one month's notice in writing or paid in lieu of such notice, wages for the period of notice or paid, at the time of retrenchment, compensation equivalent to 14 days' wages for every completed year or service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher?
Yes No Don't know Not sure Not applicable 449636
35. Are workers who are discharged from service for physical or mental incapacity or continued illness after completing not less than one year of continued service, paid compensation at the rate of 30 days wages for every completed year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher ?
Yes No Don't know Not sure Not applicable
36. Are workers who have been dismissed from service after working for over a year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher ?
Yes No Don't know Not sure Not applicable
37. Are permanent workers terminated after giving 120 days notice (in case of monthly rated workers) and 60 days notice (in case of other workers) in writing or 60 days wages paid in lieu of such notice and compensation paid upon termination at the rate of 30 days wages for every completed year of service or for any part thereof in excess of six months, in addition to any other benefit to which they may be entitled to under the law?
Yes No Don't know Not sure Not applicable

Appendix - II

Questionnaire for Union Leaders

1. Sex : Female Male
2. Marital Status : Married Single Divorced
Separated Widow
3. Education : Primary SSC H.S.C
Graduate Below Primary
4. Type of industry : Garments Textile Others
5. Status of Employment : Apprentice Casual
Permanent Badli

The Application, Compliance and Practice of Labour Laws

a. Service Rules/Appointments

1. Did you receive any appointment letter? Yes No
2. Are service books and records maintained? Yes No Don't Know
3. Are there rules displayed (in Bangla and English) in a conspicuous place at your workplace for your knowledge : Yes No Don't Know

b. Health and Hygiene

4. Do you get adequate light, air and ventilation in your workroom? Yes No
5. Do you experience discomfort as a result of dust and fumes emitted during the process of manufacturing? Yes No Not applicable
6. Is there any arrangement for safe drinking water? Yes No
7. Is there any arrangement for cooled drinking water during summer, i.e., 1 April to 30 September? Yes No
8. Is there any arrangement for separate latrines and urinals for men and women workers? Yes No
9. Is there a provision for one latrine for every 25 women workers? Yes No

C. Safety

10. Do your factory/ industry provide adequate fire exits?
Yes No
11. Do women workers lift heavy items weighing more than 50 lbs.?
Yes No
12. Do women workers lift, carry or move, by hand or on head, any material, article. tools or applicable while they are pregnant.
Yes No

D. Welfare

13. Do you have adequate and suitable washing and bathing facilities in you factory/industry?
Yes No

14. Do you have crèche facilities in you factory/industry?

Yes No

14. (i) If answer is no please mention the reason

15. Do you have provisions for a washroom for children adjoining the crèche in your factory/industry?

Yes No

e. Working Hours

16. How many hours do you work?

04 hours 06 hours 08 hours 09 hours 10 hours
12 hours 14 hours 16 hours other

17. Do you work beyond 8 pm?

Yes No

17. (i) If yes, until when?

9 pm 10 pm 11 pm other

18. Do you get any interval for rest or a meal during working hours?

Yes No

18. (i) If yes, for how long?

Half hour One hour

f. Leave and Holidays

19. Do you enjoy casual leave?

Yes No Don't Know Not Sure

19. (i) If yes, is it for:

5 days 10 days 15 days other days

19. (ii) If yes, is it with :

Full pay Partial pay Without pay

20. Do you enjoy festival holidays?

Yes No Don't know Not sure

20. (i) If yes, is it for :

5 days 10 days 14 days 20 days
other days Don't know Not sure

20. (ii) If yes, is it with :

Full pay Partial pay Without pay

21 Do women workers get maternity leave?

Yes No Don't know

21. (i) If yes, it is for :
1 month 2 months 3 months 4 months
Don't know Not sure
21. (ii) If yes, is it with :
Full pay Without pay Don't know Not sure

g. Wages

22. Do you receive wages regularly?
Yes No
23. On which day you get paid? On the
5th 7th 10th 15th Other day of the month
23. (i) Please mention about other day of the month
24. Do you receive minimum wages as stipulated by the law?
Yes No Don't know Not sure
25. Do the wages for the same work vary according to the sex of the workers?
Yes No Don't know Not sure
26. Do you get paid extra for working overtime?
Yes No Not applicable
26. (i) If yes, under what criteria ?
As per law Arbitrarily Lump sum Other
- 26 (ii) If answer is other, please mention

h. Maternity Benefit and Other Privileges

27. Are maternity benefits provided by your company ?
Yes No Don't know Not sure
27. (i) If yes, for how long?
15 days 1 month 2 months 3 months
4 months Not sure
28. Has there been any dismissal of women workers during the statutory period of maternity leave i.e. 16 weeks?
Yes No Don't know Not sure

i. Compensation

29. Do you receive compensation for injuries sustained during work?
Yes No Not applicable

30. In case of accidents are you entitled to medical examination within three days of notifying the employer of the occurrence as prescribed by law?
Yes No Don't know Not sure Not applicable
31. Is your consent sought incase of medical examination by a male practitioner following an accident.
Yes No
- 31 (i) Such medical examinations are conducted :
Alone In the presence of another woman Unable to answer

j. Union Activities

32. Are trade unions allowed in your factory/industry?
Yes No
32. (i) If answer is yes, are you active?
Yes No
33. Are union activities beneficial for you?
Yes No Not sure

K. Rules Regarding Retrenchment, Discharge, Dismissal and Termination.

34. Are workers who have been in continuous service for not less than a year retrenched without giving one month's notice in writing or paid in lieu of such notice, wages for the period of notice or paid, at the time of retrenchment, compensation equivalent to 14 days' wages for every completed year or service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher?
Yes No Don't know Not sure Not applicable
35. Are workers who are discharged from service for physical or mental incapacity or continued illness after completing not less than one year of continued service, paid compensation at the rate of 30 days wages for every completed year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher ?
Yes No Don't know Not sure Not applicable
36. Are workers who have been dismissed from service after working for over a year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher ?
Yes No Don't know Not sure Not applicable
37. Are permanent workers terminated after giving 120 days notice (in case of monthly rated workers) and 60 days notice (in case of other workers) in writing or 60 days wages paid in lieu of such notice and compensation paid upon termination at the rate of 30 days wages for every completed year of service or for any part thereof in excess of six months, in addition to any other benefit to which they may be entitled to under the law?
Yes No Don't know Not sure Not applicable

Appendix - III

Questionnaire for Employers

1. Sex : Female Male
2. Marital Status : Married Single Divorced
Separated Widow
3. Education : Primary Secondary
Higher Secondary Graduate and above
4. Sector of Business / Employment : Garments Textiles Others
5. Name of the organization : BGMEA DCCI BTMA

The Application, Compliance and Practice of Labour Laws

a. Service Rules/Appointments

1. Do you provide appointment letter? Yes No
2. Do you maintain service books and records? Yes No Don't Know
3. Do you have any service rules for workers? Yes No Don't Know
4. Do you display service rules for workers in Bangla and English in a conspicuous place within the factory/industry premises for their knowledge? Yes No Don't Know

b. Health and Hygiene

5. Do your workrooms have adequate air, light and ventilation lighting? Yes No
6. Do you have effective measures to control the emission of dust and fumes during manufacturing? Yes No Not applicable

C. Safety

7. Do your factory/ industry provide adequate fire exits?
Yes No
8. Do women workers lift heavy items weighing more than 50 lbs.?
Yes No
9. Do women workers lift, carry or move, by hand or on head, any material, article, tools or applicable while they are pregnant.
Yes No

D. Welfare

10. Do you have adequate and suitable washing and bathing facilities in you factory/industry?
Yes No
11. Do you have crèche facilities in you factory/industry?
Yes No
11. (i) If answer is no please mention the reason
12. Do you have provisions for a washroom for children adjoining the crèche in your factory/industry?
Yes No Not applicable

e. Working Hours

13. How many hours do your workers work?
04 hours 06 hours 08 hours 09 hours 10 hours
12 hours 14 hours 16 hours other

f. Leave and Holidays

14. Do your workers enjoy casual leave?
Yes No Don't Know Not Sure
15. Do your workers enjoy sick leave?
Yes No
16. Do your workers enjoy festival holidays?
Yes No
17. Do women workers get maternity leave?
Yes No
17. (i) If yes, it is for :
1 month 2 months 3 months 4 months
Don't know Not sure
17. (ii) If yes, is it with :
Pay Without pay Don't know Not sure

g. Wages

18. Do you pay the workers wages regularly?
Yes No
19. On which day you pay to your workers ? On the
5th 7th 10th 15th Other day of the month
19. (i) If answer is other day, please mention
20. Do you pay worker with the minimum wages stipulated by the law?
Yes No Don't know Not sure
20. (i) If no, please mention the reason.....
21. Do you pay your workers extra for working overtime?
Yes No
21. (i) If yes, under what criteria ?
As per law Arbitrarily Lump sum Other
22. Are maternity benefits provided by your company ?
Yes No Don't know Not sure

h. Maternity Benefit and Other Privileges

23. Did any of your women workers work during 8 weeks immediately following delivery of baby?

Yes No Don't know Not sure

i. Compensation

24. Do you provide workers with compensation for injuries sustained during work?

Yes No

25. Do you provide workers with medical examination within 3 days upon receipt of notice of an accident?

Yes No Don't know Not sure Not applicable

26. Do you seek the consent of women workers in case they require medical examination by a male practitioner in case of accidents?

Yes No

26. (i) Such medical examinations are conducted :

Alone In the presence of another woman

j. Union Activities

27. Are trade unions allowed in your factory/industry?

Yes No

27. (i) If answer is no, please mention the reason.....

28. Are women workers active in union activities in your factory / industry?

Yes No

29. Are union activities beneficial for women workers?

Yes No Not sure

K. Rules Regarding Retrenchment, Discharge, Dismissal and Termination.

30. Are workers who have been in continuous service for not less than a year retrenched without giving one month's notice in writing or paid in lieu of such notice, wages for the period of notice or paid, at the time of retrenchment, compensation equivalent to 14 days' wages for every completed year or service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher?

Yes No Don't know Not sure

31. Are workers who are discharged from service for physical or mental incapacity or continued illness after completing not less than one year of continued service, paid compensation at the rate of 30 days wages for every completed year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher ?

Yes No Don't know Not sure

32. Are workers who have been dismissed from service after working for over a year, entitled to compensation the rate of 14 days wages for every completed year of service or for any part thereof in excess of six months, or gratuity, if any, whichever is higher?

Yes No Don't know Not sure

33. Are permanent workers terminated after giving 120 days notice (in case of monthly rated workers) and 60 days notice (in case of other workers) in writing or 60 days wages paid in lieu of such notice and compensation paid upon termination at the rate of 30 days wages for every completed year of service or for any part thereof in excess of six months, in addition to any other benefit to which they may be entitled to under the law?

Yes No Don't know Not sure

Appendix-4**Descriptive Statistics****(Output of SPSS)**

		Yes type answer(VAR a)	No type answer(VAR b)
N	Valid	2353	3247
	Missing	0	0
Mean		55.68	49.53
Mean Deviation		7.89	6.69
Median		51.00	52.00
Mode		51.00	48.00
Std. Deviation		9.86	8.36
Range		98.00	98.00
Minimum		2.00	2.00
Maximum		100.00	100.00

Nonparametric Statistics(a,b)

	VAR(a,b)
Chi-Square value(X^2)	65.11
Degrees of freedom(d.f)	45
Level of Significance	.025

Note: Kruskal Wallis method has been applied.

Critical value(Table value) is 58.32 at d.f(degrees of freedom)45

**List of Garments Factories from which Sample of Workers,
Union Leaders and Employers have been drawn.**

Dhaka District

- 1) 3A garments & Hosiery (Pvt.)LTD.
- 2) A.Q.M Apparels LTD.
- 3) Abir Fashion LTD.
- 4) Advance Sweater Industry LTD.
- 5) Akbar Apparels LTD.
- 6) Al-Hamra Garments LTD.
- 7) Allure Apparel LTD.
- 8) Ameertex Limited
- 9) Angel Apparels LTD.
- 10) Anupam Sweater LTD.
- 11) Apparel Sources LTD.
- 12) Arete Knitters (Pvt.) LTD.
- 13) Arty Composite LTD.
- 14) Asiatic Fashion Garments LTD.
- 15) Aunmanica Garments LTD.
- 16) B.Brothers Garments Co.LTD.
- 17) Babylon Garments LTD.
- 18) Beacon Textile(Unit-2)
- 19) BEQ Sweaters LTD.
- 20) Bismillah Apparels LTD.
- 21) Bonny Knit Fashion LTD.
- 22) Cadtex Garments LTD.
- 23) Chaity Garments LTD.
- 24) Cherry (Pvt.) LTD.
- 25) Chittagong fashion Millennium Textile LTD.
- 26) Columbia Apparels LTD.
- 27) Confidence Sweaters LTD.
- 28) Cotton N Cotton Garments INDS. LTD.
- 29) Crown Fashion & Sweater IND.LTD.
- 30) Daiyyan Knitwear LTD.

- 31) Dekko Knitwears LTD.**
- 32) Design Wears LTD.**
- 33) Dipa Sweater LTD.**
- 34) Dora Knit Wear (BD) LTD.**
- 35) Dynamic Fashions LTD.**
- 36) Ehasan Sweaters LTD.**
- 37) Epyllion Knitwears LTD.**
- 38) Euro-Mart Apparels LTD.**
- 39) Evince Limited**
- 40) Faa Apparels LTD.**
- 41) Faman Raiments LTD.**
- 42) Faruque Knit Wears LTD.**
- 43) Fashion of next Generation LTD.**
- 44) Favourite Garments LTD.**
- 45) Florescent Apparels LTD.**
- 46) Friends World Composite INDS.LTD.**
- 47) Garmex Limited**
- 48) Global Outerwear LTD.**
- 49) Good Rich Sweaters LTD.**
- 50) Gumti Apparels LTD.**

Chittagong District

- 1) **A.B Fashion Wear LTD.**
- 2) **Amheco Fabrics (Pvt.) LTD.**
- 3) **Aries Apparels LTD.**
- 4) **Baizid Fashion Wear LTD.**
- 5) **C & A Fashion LTD.**
- 6) **Chowdhury Apparels INDS.**
- 7) **Day Apparels LTD.**
- 8) **Dressco LTD.**
- 9) **Fairmonde Knitting LTD.**
- 10) **Fija Fashions Apparels LTD.**
- 11) **Global Knit-Wear LTD.**
- 12) **Halimark Apparels LTD.**
- 13) **Index Garments LTD.**
- 14) **Jilani Fashion Wears LTD.**
- 15) **KDS Garment INDS. LTD.**
- 16) **Larson Fashion LTD.**
- 17) **M.S Wearing Apparels LTD.**
- 18) **Men's Fashions LTD.**
- 19) **Montex Apparels LTD.**
- 20) **Nemsan Fashion Management LTD.**