

# BANGLADESH

## Decent Work Check 2019

Iftikhar Ahmad

## WageIndicator Foundation - [www.wageindicator.org](http://www.wageindicator.org)

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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### Bibliographical information

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# INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental principles and Rights at Work and Core ILO Conventions, are practiced, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects, which are deemed important in attaining "decent work". The work makes the rather abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and gives a score to the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Workers can compare their own score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

Decent Work Check is useful both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work. WageIndicator teams, around the world, have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed - being a workers, self-employed, employee, employer, policy maker, labour inspector - there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer) and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work especially the effective enforcement of legislation in financially constrained states, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: [www.decentworkcheck.org](http://www.decentworkcheck.org) During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!

## Major Legislation on Employment and Labour

1. Bangladesh Labour Act 2006, amended in 2013
2. Constitution of the People's Republic of Bangladesh 4th November 1972, last amended in 2011

# 01/13 WORK & WAGES

## ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

*Bangladesh has not ratified the Conventions 95, 117 & 131 only.*

## *Summary of Provisions under ILO Conventions*

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

## Regulations on work and wages:

- Bangladesh Labour Act 2006, amended in 2013

### Minimum Wage

The term minimum wage is not defined by the Labour Act 2006 rather it sets a procedure for fixing industry wise minimum wage rates. Minimum wage rates are declared by the Government on an industry basis following recommendations by the Wages Board, a specialist tripartite board established under article 138 of the Labour Act 2006. In making its recommendation, the Wages Board takes into consideration cost of living, standard of living, cost of production, productivity, price of products, business capability, inflation rate, economic and social conditions of the country and of the locality concerned and other relevant factors. The Minimum Wages Board (MWB) is obliged to revise its recommendations if any of the aforementioned criteria change (within one to three years). The minimum rates of wages for any industry may be re-fixed after every five years as may be directed by the Government. Minimum wage rates are set on an industry basis and are binding on all employers concerned. Failure to pay workers the minimum wage is punishable by imprisonment for up to one year, or by fine up to Tk. 5,000 or by both.

Labour inspectors are authorized to ensure implementation of labour law including minimum wage provisions. A worker who is paid less than the minimum wage may apply to the Labour Court for recovery of the same within one year from the date on which the amount became due to the worker. Moreover, an employer who pays his workers' wages at a lower rate can be punished with imprisonment for a term which may extend to one year or a fine which may extend of 5,000 taka or both.

Source: §138-142, 148-149, 289(1) and 329 of the Labour Act 2006, amended in 2013

### Regular Pay

The term "Wages" means all economic benefits including salary, any bonus, remuneration for overtime work, holiday or leave, termination of employment or other additional remuneration payable under the terms of employment. Every employer is responsible for the payment of wages to workers employed by him. In case where the wages of a worker employed by a contractor are not paid by the contractor, the wages must be paid by the employer of the establishment. The maximum wage period is one month. The wages of every worker must be paid before the expiry of the seventh working day after the last day of the wage period in respect of which the wages are payable.

Where the employment of a worker is terminated by retirement or by the employer, whether by way of retrenchment, discharge, removal, dismissal or otherwise, the wages payable to him must be paid before the expiry of the 30th working day from the day on which his employment is so terminated. Wages have to be paid in legal tender, through cheque and in some cases (given the requirement of the workers) through an electronic transfer in favour of the bank account of the worker or through any other digital medium. Wages must be paid on a working day. No deduction can be made from the wages of a worker except those authorised by the Labour Act.

Source: §120-125 of the Labour Act 2006, amended in 2013



# 02/13 COMPENSATION

## ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

*Bangladesh has ratified the Convention 01 only.*

### *Summary of Provisions under ILO Conventions*

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter times (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

## Regulations on compensation:

- Bangladesh Labour Act 2006, amended in 2013

## Overtime Compensation

The normal working hours are 08 hours a day and 48 hours a week. The “hours of work” is defined as the time during which the workers are at the disposal of the employer, excluding intervals for rest and meals. Overtime is work performed on any day or week for more than the hours fixed under the Labour Act 2006, i.e., 8 hours a day and 48 hours a week. The maximum working hours, inclusive of overtime, may not exceed sixty hours in any week and on the average fifty-six hours per week in any year. Thus maximum overtime is two hours a day and 12 hours a week. However, the average overtime hours in a year must not exceed 08 hours per week.

Maximum working hours for young people between 16 and 18 years of age who work in factories or mines is five hours a day and 30 hours a week; for other establishments the maximum is seven hours a day and 42 hours a week and maximum overtime is six hours a week (36 hours for factory and mine workers and 48 hours for workers of other establishments). In the case of road transport workers, the total overtime hours cannot exceed 150 hours per year.

The Government may exempt a sector from these regulations for a maximum of six months if it considers that public interest or economic development is at stake. Overtime is paid at double (or 200% of) the basic wage rate, “dearness allowance” and interim pay, if applicable.

No criterion was imposed regarding when a worker may be requested or required to work overtime however under 2015 Labour rules, worker’s consent must be gained for overtime and he/she must be informed at least two hours prior to the commencement of overtime. For workers who are paid on a piece rate basis, employers may (in consultation with the workers’ representatives) fix time rates equivalent to the workers’ average rate of earnings which will be deemed the workers’ ordinary basic wage for the purposes of overtime work.

Source: §100, 102, 105, 108, 111, & 113 of Labour Act 2006, amended in 2013; Rule 99 of the Labour Rules 2015

## Night Work Compensation

Labour Act 2006 talks about night work in relation to restrictions on working of adolescent and women workers and the way in which a night worker's weekly rest periods are to be calculated. Where an adult worker in an establishment works on a shift which extends beyond midnight, his day of rest is a period of 24 consecutive hours beginning from the end of his shift. Women cannot be forced to work at night (in an establishment between the hours of 10.00 p.m. and 6.00 a.m.) without their consent. Adolescent workers (16-18 years old) cannot work between the hours of 7:00 p.m. and 7:00 a.m. No payment at premium rates is found in Labour Act for night workers. Similarly, there is no provision for hour reduction for night workers in the Labour Act.

Source: §41(3), 106 & 109 of Labour Act 2006, amended in 2013

## Compensatory Holidays / Rest Days

If a worker is required to work on weekly rest days, he is entitled to compensatory holidays of equal number to the holidays so deprived of as soon as the circumstances permit.

Similarly, if a worker is required to work on a festival/public holiday, he is entitled to two days' additional compensatory holidays with pay and a substitute holiday without any deduction of wages.

Source: §103, 104, & 118(3) of the Labour Act 2006, amended in 2013

## Weekend / Public Holiday Work Compensation

No premium rate is prescribed for work performed on a weekly rest day and public holiday. Rather, the worker is entitled to a day-off in lieu of working on a weekly rest day and two days' additional compensatory holidays (and a substitute holiday) in case of work on festival/public holidays.

Source: §104 & 118(3) of the Labour Act 2006, amended in 2013

# 03/13 ANNUAL LEAVE & HOLIDAYS

## **ILO Conventions**

Convention 132 (1970) on Holidays with Pay Convention  
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.  
In addition, for several industries, different Conventions apply.

*Bangladesh has ratified the Conventions 14 & 106.*

## *Summary of Provisions under ILO Conventions*

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week.

## Regulations on annual leave and holidays:

- Bangladesh Labour Act 2006, amended in 2013

### Paid Vacation / Annual Leave

The annual leave entitlements vary according to the worker's age and industry and are capped on a similar basis.

The qualifying period for all workers' annual leave entitlement is one year of continuous service in an establishment with a minimum of 240 days of service within the previous twelve months. A year's service is taken to be continuous despite any interruption in service due to any holiday, leave with wages, leave without or without wages due to sickness or accident, maternity leave not exceeding 16 weeks, period of lay-off or legal strike or lock-out. An adult worker is entitled to one day's paid annual leave: for 18 days of work (for workers employed in shops, commercial or industrial establishments, factories, or road transport service); for 22 days of work (for tea plantation workers); and for 11 days of work (for newspaper workers).

An adolescent worker (16-18 years old) is entitled to one day's paid annual leave: for every 15 days of work (factory workers); for every 18 days of work (tea plantation workers); and for every 14 days of work (for shop or commercial or industrial establishment's workers). The workers in export processing zones are entitled to one day of paid annual leave for every 22 days of work performed during the preceding twelve months.

Annual leave period is inclusive of any holiday which may occur during such period.

The period of annual leave accrued in a year is to be taken in the subsequent period of 12 months, provided that any untaken leave is added to the following year's entitlement up to a maximum entitlement of 40, 60 or 80 days. In the case of adult workers, accumulated leave may be carried forward to the following year at the rate of up to 40 days in a factory or road transport establishment and up to 60 days in a tea plantation or any shop, commercial or industrial establishment.

In the case of adolescent workers, accumulated leave may be carried forward to the following year at the rate of up to 60 days in a factory or tea plantation and up to 80 days in a shop or commercial or industrial establishment. The annual leave for workers in export processing zones may be carried forward up to a limit of 30 days. Employees can be compensated financially in lieu of taking leave if employer refuses leave in the interest of company.

Annual leave may be split in different periods however it can be implied from the Labour Act that the minimum duration of annual leave at one time cannot be less than four days for adult workers and five days for adolescent workers.

During the term of annual leave, workers are paid their full-time daily wage, including dearness allowance and ad-hoc or interim pay (if any) but excluding any overtime allowance and bonus.

Payment of wages for the period of leave is to be made, before the period of leave begins where the period is: four or more days in the case of adult workers; and five or more days in the case of adolescent workers.

Other than annual leave, all workers, except those employed in a tea plantation, are entitled to 10 days' paid casual leave during a calendar year.

Source: §14, 115, 117 & 119 of the Labour Act 2006, amended in 2013; §11 of the BEPZA Instruction No.1 Of 1989

### **Pay on Public Holidays**

Every worker is allowed in a calendar year eleven days of paid festival holidays. Some of the public holidays in Bangladesh are of religious nature while others are of memorial nature. Public holidays in Bangladesh may include Eid Milad-un-Nabi (Birthday of the Prophet Muhammad PBUH-12th of Rabi ul Awwal), Language Martyrs' Day (February 21), Independence Day (March 26), Bangla New Year's Day (April 14), May Day (May 1st), Buddha Purnima Day (determined by the traditional lunar calendar), Shab-e-Barat, Lailat-ul-Qadr, , Eid-ul-Fitr (End of Islamic month Ramadan-3 days), National Mourning Day (August 15) Krishna Janamashtami (August 17), Vijaya Dasami/Durga Pooja, Eid ul-Adha (10th of Islamic Month ZilHaj- 3 days), Ashoora (10th of Muharram), Victory Day (December 16) and Christmas Day (December 25).

On public holidays, workers are paid their full-time daily wage, including dearness allowance and ad-hoc or interim pay (if any) but excluding any overtime allowance and bonus.

Source: §118 & 119 of Labour Act 2006, amended in 2013

### **Weekly Rest Days**

An adult worker employed in a shop or commercial establishment, or in an industrial establishment, is allowed in each week one and half days as weekly rest. An adult worker employed in a factory and establishment (as well as road transport service) is allowed one day (of 24 consecutive hours) as weekly rest. No deduction is to be made from the worker's wages on account of such weekly rest days. The weekly rest days are usually Friday-Saturday.

Source: §103 & 114 of Labour Act 2006, amended in 2013

# 04/13 EMPLOYMENT SECURITY

## ILO Conventions

Convention 158 (1982) on employment termination

*Bangladesh has not ratified the Convention 158.*

### *Summary of Provisions under ILO Convention*

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

## Regulations on employment security:

- Bangladesh Labour Act 2006, amended in 2013

## Written Employment Particulars

An employer is required to provide a new worker with a letter of appointment and an identity card with photograph at the start of his/her employment.

Employers are further required to provide a service book to every worker employed. The service book must be of such size and in such form as is prescribed by rules and a photograph of the worker must be affixed to it. This service book is kept in the custody of the employer however a worker can get the duplicate copy of this service book at his own cost.

The service book contains the following particulars, namely: name of the worker, name of parents and address of the worker, (in appropriate case name of husband/wife are written); date of birth; particulars necessary for identification; name and address of the employer under whom previously employed, if any; period of employment; occupation or designation; wages and allowances (if any), leave availed; and conduct of the worker.

Employer is required to handover the service book to the worker on termination of employment. Other than service book, employers are further required to maintain a workers' register which contains necessary information about all the workers employed.

Source: §5, 6(1), 7, 9 of the Labour Act 2006, amended in 2013

## Fixed Term Contracts

The Labour Act does not regulate the use of fixed-term contracts but it classifies the workers into following classes:

- A badli (= transfer worker) is a worker who is employed during the absence of a permanent worker or of a probationer worker.
- A casual worker is a worker who is appointed in an establishment temporarily for a work that is casual in nature.
- A temporary worker is a worker who is employed to perform work which is essentially of temporary nature, and is likely to be finished within a limited period.
- A probationer is a worker who is provisionally employed in an establishment to fill a permanent vacancy in a post and has not completed the period of his probation in the establishment.
- An apprentice is a worker who is employed in an establishment as a learner, and is paid an allowance during the period of his training.
- A permanent worker is a worker employed in an establishment on a permanent basis or who has satisfactorily completed the period of his probation in the establishment.
- Seasonal Worker is a worker who finds employment only in certain seasons.



From the above-mentioned definition, we can infer that reasons connected to the temporary nature of the work are present in the Labour Act in order to hire a badli or a temporary worker and therefore such workers cannot be hired to perform tasks of permanent nature.

Source: §4(1-7) of the Labour Act 2006, amended in 2013

## **Probation Period**

According to Labour Act, the probationary period is 6 months for a worker exercising functions of clerical nature; and 3 months for other workers.

The period of probation of a skilled worker can be extended by an additional period of 3 months if it has not been possible to determine the quality of the work within the first 3 months' period of probation. After completion of the three months or extended period of probation, the concerned workers must be treated as permanent even if s/he is not issued any letter of confirmation. If the employment of a probationer is terminated but s/he is employed by the same employer within the next three years, s/he is exempted from the period of probation previously completed.

Source: §4(8-9) of the Labour Act 2006, amended in 2013

## **Notice Requirement**

A written notification should be served on a worker who is to be dismissed in case of Retrenchment, dismissal (on the ground of serious misconduct) or termination by the employer with notice without a cause. In the event of a retrenchment, the employer gives the employee one month's notice. In the event of termination without cause, the employer has to observe the following notice period:

- For permanent workers: 120 days' notice if the worker is paid on a monthly basis; and 60 days' notice to other workers.
- For temporary workers (when termination is not due to the completion, cessation, abolition or discontinuance of the temporary work for which the workers was appointed): 30 days' notice if the temporary worker is paid on a monthly basis; and 14 days' notice to other temporary workers.

No statutory notice requirements exist for conduct and capacity-related dismissals. The employer can opt for paying the wages in lieu of notice in the cases of retrenchment, termination without conduct-related cause or capacity related discharge. No notice period is required if a worker is dismissed on the grounds of misconduct and criminal conviction. The worker is informed of the allegations against him in writing, is granted a period of seven days to provide a defence and has the right to be heard. All dismissed workers have the right to seek redress within a period of 30 days by addressing their grievance to the employer (section 33). If no settlement is reached, the matter is referred to a labour court.

Source: §20(1), 24 & 26 of the Labour Act 2006, amended in 2013

*The text in this document was last updated in February 2019. For the most recent and updated text on Employment & Labour Legislation in Bangladesh in Bengali, please refer to: <https://mywage.org.bd/>*

## Severance Pay

Under the Labour Act, severance pay is payable to a worker who has been continuously employed for at least one year in the event of a termination based on physical or mental incapacity or continued ill-health (referred to as 'discharge'). The worker is paid at the rate of thirty days' wages for every completed year of service, or gratuity, if any, whichever is higher. Under the 2013 Amendment Act, the rate of gratuity payment is 30-day wages for up to 10 years of service. The gratuity is raised to 45 days' wages for more than 10 years of service.

In the case of termination with notice by the worker, the worker is paid at the rate of fourteen days' wages for every completed year of service, if he has completed five years of continuous service or more but less than ten years; (b) at the rate of thirty days' wages for every completed year of service, if he has completed ten years of continuous service or more; or gratuity, if any, whichever is higher. Workers are not entitled to severance pay in the event of termination on the ground of misconduct (referred to as 'dismissal').

In the event of retrenchment, any worker with at least one year of continuous service with the employer is entitled to a payment of at least 30 days' wages for each completed year of service. If an employer decides to terminate a worker's contract on grounds of retrenchment after a 45-day lay-off period, the worker is entitled to 15 days' wages in addition to redundancy pay.

In the event of worker's death in service after a continuous service of at least two years, his/her survivors are entitled to 30 days' wages for every year of service for normal death and 45 days' wages for every year of service for accidental death.

Source: §2(10), 16(7), 19, 20(3), 22(2) & 27(4) of the Labour Act 2006, amended in 2013

# 05/13 FAMILY RESPONSIBILITIES

## ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981)  
Recommendation 165: Workers with Family Responsibilities (1981)

*Bangladesh has not ratified the Conventions 156 & 165.*

### *Summary of Provisions under ILO Convention*

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

## **Regulations on family responsibilities:**

- Bangladesh Labour Act 2006, amended in 2013

## **Paternity Leave**

No provision for paternity leave benefits identified in Labour Act 2006. However, new fathers may use the casual leave provision of 10 days when a child is born. The only exception is tea plantation workers who cannot get casual leave.

Source: §115 of Labour Act 2006, amended in 2013)

## **Parental Leave**

No provision for parental leave benefits identified in Labour Act 2006.

## **Flexible Work Option for Parents / Work-Life Balance**

No provision for flexible work option for workers with minor children and other family responsibilities identified in Labour Act 2006.

# 06/13 MATERNITY & WORK

## ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

*Bangladesh has not ratified the Conventions 103 & 183.*

### *Summary of Provisions under ILO Convention*

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

## Regulations on maternity and work:

- Bangladesh Labour Act 2006, amended in 2013

### Free Medical Care

No medical benefit entitlements identified in the Labour Act 2006.

### No Harmful Work

"There is a prohibition on employing women in unsafe or unhealthy work for a period preceding and following the day of delivery (10-week pre-natal and 10-week post-natal prohibition on employment of women in arduous work).

An exception applies to tea plantation workers, who may perform light work (during above mentioned 10-week prenatal and 10-week post-natal periods) if they are certified fit to do so by the tea estate's medical practitioner. The performance of such work cannot affect the worker's maternity benefits entitlement. It is also the duty of employers to provide room facilities for new mothers and children (under the age of six years). Night work between the hours of 10:00 p.m. and 6:00 a.m. is also prohibited for all women workers (whether pregnant, a new mother or otherwise), without her own consent.

Source: §45(3), 94 & 109 of the Labour Act 2006

### Maternity Leave

Women workers are entitled to 16 weeks of maternity leave (eight weeks pre-natal and eight weeks' post-natal paid leave allowed). A pregnant woman must give oral or written notice of her expected confinement within the 8 weeks preceding the expected date of birth, or give notice of the fact that she has given birth within 7 days of the actual date of birth. Employers are prohibited from knowingly employing a woman in an establishment, and women are also prohibited from working in any establishment, during the eight weeks immediately following the day of her delivery. No entitlement to leave is identified in the case of illness or complications arising during the pregnancy. Similarly, there is no extension in maternity leave in the case of multiple births.

Source: §45 & 47 of the Labour Act 2006, amended in 2013

## Income

The Labour Act 2006 entitles women workers to 16 weeks' maternity leave pay at their average daily, weekly or monthly wage received by the workers during the preceding three months. A worker must have worked under the employer for a period of at least six months immediately preceding the day of her delivery. The employer is not obliged to pay the maternity benefit until the worker has produced a certificate signed by a registered medical practitioner as to her expected confinement and/or another form of proof that she has given birth to a child. The proof required can be either a birth certificate, medical certificate or other proof as may be accepted by the employer. Further, the maternity benefit is not payable to any woman if, at the time of her confinement, she has two or more surviving children (although she will still be entitled to the relevant period of unpaid leave). The maternity benefit is payable in respect of the period of leave taken by the worker during the 8 weeks preceding the expected day of delivery and 8 weeks immediately following the day of delivery. The maternity benefit is employer funded and applies to every woman employed in an establishment. If a woman entitled to maternity benefit dies at the time of her delivery or during the next period of 8 months, the employer is required to pay the amount of maternity benefit due, if the newly born child survives, to the person who undertakes the care of the child, and if the child does not survive, to the person nominated by her, or if she has made no such nomination, to her legal representative(s). However, if a woman worker dies before giving birth to a child, employer is required to pay only for the period up to and including the day of her death although employer cannot recover the (excess) amount already paid to the worker as maternity benefit.

Source: §46(1-2), 47(4-5) & 49 of the Labour Act 2006, amended in 2013

## Protection from Dismissals

Employment of a worker is secure during a period of her pregnancy and her maternity leave. If a notice or order of discharge, dismissal, removal or termination of employment is given by an employer to a woman worker within a period of six months before and eight weeks after her delivery and such notice or order is given without sufficient cause, she will not be deprived of any maternity benefit to which she would have become entitled.

## Right to Return to Same Position

No provision for right to return to same position identified in Labour Act 2006. However, it is implied from § 50 of the Labour Act that since employment of a worker is secure during her maternity leave, she can return to her job although not necessarily to same position.

Source: §50 of the Labour Act 2006, amended in 2013

## Breastfeeding/ Nursing Breaks

No relevant provisions identified in Labour Act 2006 about nursing breaks or daily reduction of hours of work for working mothers. However, employers at establishments with forty or more workers must provide and maintain a suitable room or rooms for the use of children under the age of 6 years and their mothers. The room has to be furnished with at least one chair or equivalent seating accommodation for the use of each mother while she is feeding or attending to her child.



# 07/13 HEALTH & SAFETY

## ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

*Bangladesh has ratified the Convention 81 only.*

### *Summary of Provisions under ILO Conventions*

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

## Regulations on health and safety:

- Bangladesh Labour Act 2006, amended in 2013

## Employer Cares

Health and safety at work is a right to which all employees are legitimately and legally entitled. A safe and hygienic working environment must be provided to the workers, and best occupational health and safety practice must be promoted in workplace. The Labour Act 2006 specifies issues/areas related to occupational health and safety which include: cleanliness, ventilation and temperature, artificial humidification, overcrowding, lighting, fire related incidents, excessive weights, safety of building and machineries, fencing of machinery, work on or near machinery on motion, explosive or inflammable dust or gas, precautions against dangerous fumes, personal protective equipment and risk assessment and prevention.

## Free Protection

There are several sections in Labour Act which regulates the provision of the personal protection equipment to the worker employed. Effective screens or suitable goggles must be provided for the protection of a worker's eye where there is a risk of injury to eyes from particles or fragments thrown off in the course of the process or risk to the eyes by reason of exposure to excessive light or heat.

In case of dangerous operations which may cause serious risk of bodily injury, poisoning or disease, it is employer responsibility to provide the protective equipment for all persons employed in the operation or in the vicinity of the places where it is carried out and the use of any specified materials or processes in connection with the operation; and notice specifying use and precautions regarding use of any corrosive chemicals.

For work that includes explosive or inflammable dust, gas, etc., an employer must not engage workers in such work without providing and ensuring use of personal safety equipment, and in doing so, a record book must be maintained as designated by the owner. Despite supply of personal safety equipment to the worker, those workers are held liable for not using the personal protective equipment.

Employers are required to provide all such equipment and appliances free of cost and cannot recover any cost from the worker for provision of such facilities.

Source: §78 and 330 of the Labour Act 2006, amended in 2013

## Training

An employer is obliged to provide a practical and relevant training in health and safety for workers hired and to ensure professional health and safety for workers at workplace. Employer is required to create awareness in workers through workplace trainings. In case of dangerous operations which may cause serious risk of bodily injury, poisoning or disease, it is employer's responsibility to provide the periodical medical examination of persons employed in the operation and prohibiting the employment of persons not certified as fit for such employment. The workers employed in such operations and working on dangerous machines must be sufficiently trained and supervised.

Source: §40(1b), 78a(3), 79(c) of the Labour Act 2006, amended in 2013

## Labour Inspection System

Under Labour Act, the Inspector has an important role to play in supervising and monitoring occupational health and safety measures. Labour inspectors have the right to enter any workplace to assess compliance with the law, to request registers and other documents and to examine any worker employed within the preceding two months. He has the authority to require employers to remedy any breaches of the regulations on the prevention of occupational risks, and to order immediate cessation of work if the breach gives rise to serious and imminent danger to employees' health and safety. An Inspector may, at any time during the normal working hours, informing the employer of an establishment, take a sufficient sample of any substance used or intended to be used in the establishment such use being, in the opinion of the Inspector in contravention of the rules, or likely to cause bodily injury to or injury to the health of, workers in establishment. If the Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any establishment or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, the employer concerned, until he is satisfied that the danger is removed. The Department of Inspection for Factories and Establishments (DIFE) working under the Ministry of Labour and Employment and having 23 district offices is responsible for health, safety and welfare of the workers by enforcing labour laws in the country. DIFE is not merely a law enforcement organization rather it helps employers and workers in complying with the legal provisions.

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

**Bangladesh has not ratified the Conventions 102, 121 & 130.**

### *Summary of Provisions under ILO Conventions*

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

## Regulations on sick leave & Employment Injury Benefits:

- Bangladesh Labour Act 2006, as amended in 2013

### Income

Every worker other than a newspaper worker, is entitled to sick leave with full wages for fourteen days in a calendar year. Newspaper workers are entitled to sick leave with half wages for not less than one-eighteenth (1/18th) of the period of their services. No such leave is allowed unless a registered medical practitioner certifies that the worker is ill and requires sick leave for cure or treatment for such period as may be specified by him. Such leave can't be accumulated and carried forward to the succeeding year.

It can be inferred from above provisions that sick leave can be both paid (up to 14 days) and unpaid (if it goes beyond 14 days).

For sick leave, employee is paid by the employer at the rate equal to the daily average of his full time wages including dearness allowances, and ad-hoc or interim pay, if any, but excluding any overtime allowance and bonus. On-site medical facilities are provided for employees of firms with at least 300 workers. A medical allowance of Tk.100 a month is paid to workers whose employer does not provide medical facilities.

As for public sector workers, the Prescribed Leave Rules of 1959 entitle these workers to a maximum of four months of sick leave with full pay that can be extended to six months on production of a medical certificate and to one year when combined with other accumulated leave (like annual leave). The public sector employees are also entitled to a monthly medical allowance of Tk.700.

Source: §116 & 119 of the Labour Act 2006, amended in 2013; Prescribed Leave Rules of 1959

### Medical Care

The group insurance is compulsory according to Government rules, in the establishments wherein minimum 200 permanent workers are employed. Every newspaper worker and his dependents are entitled to medical care at the cost of the newspaper establishment in such manner and to such extent as may be prescribed. Some employers provide on-site medical facilities and workers may also use certain government-run hospitals. A medical allowance of Tk.100 a month is paid to workers whose employer does not provide medical facilities. All public sector employees are entitled to a monthly medical allowance of Tk.700.

Source: §98-99 of the Labour Act 2006, amended in 2013

## Job Security

Employment of a worker is secure during the first 14 days of illness. After that a worker may be granted an unpaid leave however its duration is not clearly specified in the law. Law also allows an employer to discharge a worker for continued ill health if certified by a medical practitioner.

Source: §22 of the Labour Act 2006, amended in 2013

## Disability / Work Injury Benefit

Work injuries may be classified, on the basis of their consequences, as those resulting in: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

In the case of permanent total incapacity (100%), workers are entitled to an amount up to Tk.125,000 while in the case of partial disability, the benefit is adjusted in proportion to the assessed degree of loss in earning capacity.

In the case of temporary disability, the benefit is 100% of the insured's earnings for the first 2 months, 66.7% of earnings for the next 2 months, and 50% of earnings for subsequent months of disability or for up to a year, whichever is shorter (the first three days are considered the waiting period).

In the case of worker's death due to an occupational accident or disease, 30 days of the insured worker's wages for every year of service for less than 10 years or service or 45 days' wages for every year of service with at least 10 years of service along with a lump sum amount of Tk.100,000 is paid to surviving dependents in proportions determined by a labour court. Such payment has to be deposited with the labour court for further distribution in dependents unless a worker has nominated his dependents beforehand.

Source: §150-151 of the Labour Act 2006, amended in 2013

# 09/13 SOCIAL SECURITY

## ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

**Bangladesh has not ratified any of the above mentioned Conventions.**

## *Summary of Provisions under ILO Conventions*

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

## Regulations on social security:

- Bangladesh Labour Act 2006, amended in 2013

## Pension Rights

The usual retirement age for the private sector workers is 60 years (same for women) however the private sector workers are not entitled to pension benefit except gratuity paid at the time of retirement.

To partly alleviate the situation of absolute poverty in the country, The Ministry of Social Welfare, since 1998, provides an old-age allowance under the Government's social safety net programme. To be eligible for an old-age allowance, the recipient must be at least 65 years of age (62 years of age for women) and their annual average income must be under Tk. 10, 000. Priority is given to those persons who are physically and mentally infirm or handicapped, have no assets, are homeless, landless, freedom fighters, widowed, divorced, single and deserted by their family. Beneficiaries of old-age allowance receive Tk.500 a month payable every quarter, without limit of time.

Source: §28 of the Labour Act 2006, amended in 2010

## Dependents' / Survivors' Benefit

If a worker dies while in service after a continuous service of at least two years, his nominee or in the absence of any nominee, his dependents shall be paid by the employer a compensation at the rate of thirty days' wages for a normal death and of forty five days for an accidental death while working in the establishment or on duty for every completed year of service or for any part thereof in excess of six months, or gratuity whichever is higher, and the amount will be in addition to any other benefit to which the deceased worker would have been entitled to had he retired from the service.

Source: §19 of Labour Act 2006, amended in 2013

## Unemployment Benefits

No statutory unemployment benefits are provided. Severance pay along with pay in lieu of notice is provided under the law. For more information on this, please refer to the section on employment security.

## Invalidity Benefits

No invalidity benefits exist for the private sector workers. Only public sector workers have entitlement to the invalidity benefits.



# 10/13 FAIR TREATMENT

## ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

**Bangladesh has ratified both Conventions 100 & 111.**

### *Summary of Provisions under ILO Conventions*

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

## Regulations on fair treatment:

- Bangladesh Labour Act 2006, amended in 2013
- Constitution of the People's Republic of Bangladesh 4th November 1972, last amended in 2011

## Equal Pay

Under the Constitution, the State must endeavour to ensure equality of opportunity to all citizens. The State must 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 throughout the Republic. (§§ 10, 19, 20 of the Constitution of the People's Republic of Bangladesh)

In determining wages or fixing minimum rates of wages for any worker, the principle of equal wages for female, male and physically challenged workers for work of equal nature or value must be followed and no discrimination should be made in this respect on the ground of sex.

## Sexual Harassment

According to Labour Act, the case where any female worker is employed in any work of the establishment, irrespective of her rank or status, no one of that establishment may behave with the female worker in a way which may seem to be indecent or repugnant to the modesty or honour of the female worker. No other provision to prohibit sexual harassment at workplace is identified in Labour Act 2006. In May 2009 hearing of the Petition No. 5916 of 2008, the Bangladesh Supreme Court issued a detailed definition of sexual harassment and identified steps employers and educational institutions have to take in order to prevent sexual harassment. The Court's guidelines on sexual harassment, which must be observed in all workplaces in the public and private sectors (paragraph 1), provide a detailed definition of sexual harassment covering both quid pro quo and hostile environment harassment (paragraph 4). The guidelines identify the steps required of employers to prevent sexual harassment, including awareness raising about and widely publicizing of the guidelines and the legislative provisions regarding gender equality and sexual offences (paragraphs 3, 5 and 6). The guidelines also cover disciplinary action (paragraphs 7 and 11), a complaints mechanism, including the establishment of a complaints committee in all workplaces (paragraphs 8-10), and criminal proceedings (paragraph 11). These guidelines issued by the Supreme Court have the force of law until adequate and effective legislation is in place.

Under the Prevention of Oppression Against Women and Children Act 2000, "whoever, to satisfy his sexual urge illegally, assaults a woman sexually or makes any indecent gesture, his/her act is deemed to be sexual oppression and that person is punished with imprisonment for either description (two to seven years) and also with fine.

## Non-Discrimination

Under the Constitution, all citizens are equal before Law and are entitled to equal protection of Law. The State must not discriminate against any citizen on the grounds of religion, race, caste, sex or place of birth. Therefore, discrimination on the grounds of any of the above grounds is prohibited in the country. Women have equal rights with men in all spheres of the State and of public life. No citizen, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution. There must be equality of opportunity for all citizens in respect of employment or office in the service of the Republic. No citizen, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic.

The Bangladesh Persons with Disability Welfare Act 2001 promotes equality of opportunities of employment for suitably qualified persons with disabilities in recruiting employees for government departments, statutory bodies and local authorities.

The 2001 Act was repealed in 2013 and a new law was promulgated in 2013 under the name of Persons with Disabilities Rights and Protection Act 2013. The law provides for employment of persons with disabilities in the public and private sector organizations. No organization can refuse employment to a person with disability (PWD) on the basis of discrimination as long as that person has the capacity to perform in that position. The Act requires the public and private sector organizations to identify positions within their organization which are suitable for PWDs. The Act establishes a National Disabled Welfare Coordination Committee and empowers it to create employment opportunities and maintain quotas in the public sector for persons with disabilities and for orphans in selected grades of public sector jobs. The Act prohibits discrimination on the ground of disability.

Moreover, discrimination against a worker in employment related matters on the ground of membership or non-membership of a trade union is also prohibited.

Source: §19 & 27-29 of Constitution of the People's Republic of Bangladesh; §195 of Labour Act 2006, amended in 2013; §16 and 35 of the Persons with Disabilities Rights and Protection Act 2013

## Equal Choice of Profession

Constitution of Bangladesh encourages participation of women in all spheres of national life. Subject to certain restrictions imposed by law, every citizen has the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business.

Women can work in the same industries as men with few exceptions. Section 64 of the Labour Act requires employment of properly trained adult male workers for examination, adjustment and lubrication of any part or component of machineries in motion. Women and adolescent are not allowed to do the above-mentioned tasks and they are also not entitled to work in places between fixed and moving parts of any machinery in motion. The Government may also prohibit the employment of women, adolescents or children in the dangerous operations that can cause a serious risk of bodily injury, poisoning, or disease to the person employed. Women workers cannot also be employed for underground, underwater work or hazardous work. Similar restrictive provisions are located in 2015 Labour Rules.

Source: §19 & 40 of the Constitution of the People's Republic of Bangladesh; §64, 79, 87 of Labour Act 2006, amended in 2013; §68 of the Labour Rules 2015

# 11/13 MINORS & YOUTH

## ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**Bangladesh has ratified the Convention 182 only.**

### *Summary of Provisions under ILO Conventions*

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

## Regulations on minors and youth:

- Bangladesh Labour Act 2006, amended in 2013

### Minimum Age for Employment

Labour Law 2006 prohibits employment of children and requires an adolescent to obtain a fitness certificate to be employed in any occupation or in a factory. Child means a person who has completed her/his fourteen years of age and adolescent means the person who has completed sixteen years and has not completed eighteen years of age. As an exception, a child who has completed twelve years of age, may be employed in such light work which does not endanger his health and development or interfere with his education. The working hours of such children should also be arranged in such a way that work does not interfere with their school attendance. The Labour Code further prohibits parents or guardians from making employment agreements on behalf of their children. For adolescents, fitness certificate from registered medical practitioner is mandatory. Any certificate of fitness granted under this section remains valid for a period of twelve months from the date on which it was issued. The compulsory education age is set as 11 years under section 2 of the Primary Education (Compulsory) Act 1990.

Source: §34 of Labour Act 2006, amended in 2013

### Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. People over 16 and under 18 years of age are not allowed in any establishment to clean, lubricate or adjust any part of machinery while that part is in motion or to work between moving parts or between fixed and moving parts, of any machinery which is in motion. No adolescent should work at dangerous machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and has received sufficient training in work at the machine, or is under adequate supervision by a person who has thorough knowledge and experience of the machine. Adolescent working in any factory or mine, are prohibited to work for more than five hours in any day and thirty hours in any week and those working in any other establishment, are prohibited to work for more than seven hours in a day and forty-two hours in a week. No adolescent is allowed to work in any establishment between the hours of 7:00 p.m. and 7:00 a.m. Underground, under-water work and other hazardous work is also prohibited for adolescent workers. In 2012, the Government created a list of hazardous work prohibited for children; however, it is still not approved. The list contains 36 occupations such as ship breaking, leather manufacturing, construction, and work in automobile workshops.

A list of 32 hazardous activities has been published in 2015 Labour Rules in which employment of children and adolescent workers is prohibited. The list is issued under section 79 of the Labour Act. These include working in brick furnaces, working in mines, work with different kinds of machines, fishing in deep sea, etc.

Meanwhile a new Act (Children's Act 2013) has been approved which not only raises the legal age of child (from 14 to 18 years) but also prescribes stringent penalties if a child is exploited in employment related matters (exploiting a child through confining his life and his earnings) which range from imprisonment for up to two years or a fine of up to Tk.50,000 or both. A person who enjoys the gain made as a result of exploitation or employment of a child or uses the child for immoral entertainment is liable as an abettor of the offence.

Source: §80 of the Children's Act 2013; §39-42 of Labour Act 2006, amended in 2013; Rule 68 of the Labour Rules 2015

# 12/13 FORCED LABOUR

## **ILO Conventions**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

**Bangladesh has ratified both Conventions 29 & 105.**

### *Summary of Provisions under ILO Conventions*

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.



## **Regulations on forced labour:**

- Bangladesh Labour Act 2006, amended in 2013
- Constitution of the People's Republic of Bangladesh 4th November 1972, last amended in 2011

## **Prohibition on Forced and Compulsory Labor**

Forced labour is strictly prohibited by the Constitution of the People's Republic of Bangladesh. Article 34 of the Constitution of the Peoples Republic of Bangladesh reads as follows: "All forms of Forced Labour are prohibited and any contravention of this provision shall be an offence and shall be punishable in accordance with Law". Forced labour is also prohibited under section 374 of Penal Code which states that "whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both". The Prevention and Suppression of Human Trafficking Act, enacted in 2012, also penalizes human trafficking for the purposes of labour exploitation and proposes a punishment with rigorous imprisonment ranging from 5 years to imprisonment for life and fine of not less than Tk. 50,000.

Source: §34 of Constitution of the People's Republic of Bangladesh; §374 of the Penal Code 1860; §3 and 6 of the Prevention and Suppression of Human Trafficking Act, 2012

## **Freedom to Change Jobs and Right to Quit**

There is no provision in Bangladesh Labour Act which restricts the workers to change or quit job. According to constitution, every citizen has the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business.

A permanent employee may terminate the contract and recover his freedom to work at another job by giving a written of sixty days. A temporary worker may resign from his service by giving a written notice of thirty days, if he is a monthly rated worker or fourteen days' notice in case of other workers. Where a worker intends to resigns from his service without any notice, he may do so by paying to the employer wages in lieu of the notice for the above mentioned duration.

Source: §40 of Constitution of the People's Republic of Bangladesh; §27(1-3) of Labour Act 2006, amended in 2013

## Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty-eight hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed sixty hours in any week and on the average fifty-six hours per week in any year. Thus maximum overtime is two hours a day and 12 hours a week. However, the average overtime hours in a year must not exceed 08 hours per week.

For more information on this, please refer to the section on compensation.

Source: §100, 102, 105, 108, 111, & 113 of Labour Act 2006, amended in 2013

# 13/13 TRADE UNION

## ILO Conventions

Freedom of association and protection of the right to organize:  
Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

**Bangladesh has ratified both Conventions 87 & 98.**

### *Summary of Provisions under ILO Conventions*

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

## Regulations on trade unions:

- Bangladesh Labour Act 2006, amended in 2013
- Constitution of the People's Republic of Bangladesh 4th November 1972, last amended in 2011

## Freedom to Join and Form a Union

The Bangladesh Constitution guarantees the right to form associations or unions. Under article 38 of the Constitution, every citizen has the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order. The Labour Act 2006 addresses various aspects of the formation of trade unions. Both workers and employers have the right to establish and join associations of their own choosing without prior authorization. Trade unions have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes. Any trade union may, under the signature of its resident and secretary, apply for registration of the trade union. Labour Act also prohibits the dismissal, discharge, removal from employment or the threat to undertake such actions by reason that the worker is or proposes to become, or seeks to persuade any other person to become a member or officer of a trade union, or participates in the promotion, formation or activities of a trade union.

Source: §176-177, 195(d) of Labour Act 2006, amended in 2013; §38 of the Constitution of the People's Republic of Bangladesh

## Freedom of Collective Bargaining

Right to collective bargaining is regulated under article 202 of Labour Act 2006. Where there is only one trade union in an establishment, that trade union is deemed to be collective bargaining agent for such establishment. Where there are more trade unions than one in an establishment, the Director of Labour, upon an application made in this behalf by any such trade union or by the employer, hold a secret ballot, within a period of not more than four months from the date of receipt of such application, to determine as to which one of such trade unions is the collective bargaining agent for the establishment. Once a trade union is declared collective bargaining agent, it shall remain so for the next two years. The Collective Bargaining Agent is responsible for undertaking collective bargaining with the employer or the employers on matters connected with the employment, non-employment or terms of employment; represent all or any of the workers in any proceedings; give notice of and declare a strike in accordance with provisions of the law; and nominate representatives of workmen on any committee, fund constituted as per the provisions of law or agreements.

There is a National Tripartite Consultative Council (TCC) in Bangladesh which is composed of 60 members, 20 members each from government, workers' organizations and employers' organizations. The TCC discuss various issues of national importance such as formulation of labour policy, amendments to the labour legislation, ratification of ILO Conventions, etc. Government has recently formed a 20-member tripartite consultative council for the ready-made garment (RMG) sector with representatives from workers, employers and the government.

Source: §202 of Labour Act 2006, amended in 2013

## Right to Strike

The Labour Act recognises workers' right to strike with several conditions including 67% (two-thirds) of union members must consent to a strike before it is announced. If a strike or lock-out is commenced, either of the parties may make an application to the Labour Court for adjudication of the dispute. The government can prohibit any strikes lasting more than 30 days and refer the matter to labour courts for adjudication. In the case of any of the public utility services, the Government may, by order in writing, prohibit a strike or lock-out at any time before or after the commencement of the strike or lockout. The waiting for period prior to an industrial action is 7 days.

Strikes are banned during the first three years of commercial production in a new factory or if the factory was built with foreign investment or is owned by foreign investors. It is considered unfair labour practice on the part of employer to recruit any new worker during the period of legal strike, except where the Conciliator has, being satisfied that complete cessation of work is likely to cause serious damage to the machinery or installation, and permits temporary employment or a limited number of workers. Illegal strikes are prohibited under the law and if a worker commences, continues or otherwise acts in furtherance of, an illegal strike, he/she is punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Tk. 5,000 or with both. A strike is illegal if the matter is subject to conciliation or arbitration or is covered by an award. Strikes are not lawful unless conciliation has been attempted beforehand, Labour Act prohibits replacement of striking workers and considers it an unfair labour practice.

Source: §195(h), 211 & 294 of Labour Act 2006, amended in 2013

# DECENT WORK QUESTIONNAIRE

## DECENTWORKCHECK.ORG

Check

DecentWorkCheck Bangladesh is a product of  
WageIndicator.org and www.mywage.org.bd/home



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

## 02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

## 03/13 Annual Leave &amp; Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

## 04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 06/13 Maternity &amp; Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

\* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





# DECENTWORKCHECK.ORG

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy<br><i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child   |  | <input type="checkbox"/> | <input type="checkbox"/> |





## 07/13 Health & Safety

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |









## 08/13 Sick Leave & Employment Injury Benefits

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |    | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury                                       |   | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease     |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 09/13 Social Security













- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 10/13 Fair Treatment

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination                                     |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Sex/Gender   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Race   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Colour   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Religion   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Political Opinion  |  | <input type="checkbox"/> | <input type="checkbox"/> |



\* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.



Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
Age		<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
Language		<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)		<input type="checkbox"/>	<input type="checkbox"/>
Marital Status		<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance		<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession		<input type="checkbox"/>	<input type="checkbox"/>




## 11/13 Minors & Youth

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41. In my workplace, children under 15 are forbidden		<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work		<input type="checkbox"/>	<input type="checkbox"/>





## 12/13 Forced Labour

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43. I have the right to terminate employment at will or after serving a notice		<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour		<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week		<input type="checkbox"/>	<input type="checkbox"/>

## 13/13 Trade Union Rights

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46. I have a labour union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace		<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination		<input type="checkbox"/>	<input type="checkbox"/>

# DECENTWORKCHECK.ORG

## Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Bangladesh scored 35 times "YES" on 49 questions related to International Labour Standards

### If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

### If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

### If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.