

Ensuring Fundamental Rights of Worker by The Labor Act 2006: A Critical Appraisal

COXY TALUKDER
Program Director
ASHIKA, Bangladesh

Abstract:

The Bangladesh Labor Act 2006 (Act No. XLII of 2006) is not enacted in a day. It has been passed by repealing most of Labor Laws of Bangladesh vide Gazette Notification dated 11th October, 2006. Labor law regulates matters such as labor employment. This dissertation examines the fundamental rights of the workers in Bangladesh. The fundamental rights of workers basically framed on the basis of the core labor standards adopted in the International Labor Organization (ILO) Conventions. In response to demands for recognition of their fundamental rights by the workers' the new Labor Act came into being by maintaining consistency with ILO labor standards. It examines both the International fundamental rights framework and the domestic labor position. It concludes by recognizing that significant enforcement mechanisms are there ahead in relation to the restitution of fundamental rights of the workers in every establishment, remunerations, condition of works, trade unions and labor management relations etc.

Key words: Fundamental rights, Workers, Labor act

Introduction

Globalization today is characterized, above all, by rapid market expansion-trade, movement of capital and information and

footlessness of production. While these changes have brought some positive gains for workers (jobs and the possibility for increased international solidarity), they have outpaced the regulation of this process and its effects on people. There has been more progress on policies, norms and institutions that favor open global markets than those that protect the rights of people. There needs to be a renewed commitment to human rights, and workers need to understand them and how to exercise them. The rights exposed in the international instruments like Universal Declaration of Human Rights and International Labor Organization's Conventions are universal in nature and they seek to promote freedom, justice and peace in the world, by calling upon governments to guarantee, known as Fundamental Rights of workers.¹

Recognition of Fundamental Rights of Workers as Incorporated in the Constitution of Bangladesh: Part II of the Constitution of Bangladesh provides fundamental principles of State Policy under which the following principles are related to workers:

According to Article 14: (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."

According to Article 20 (Work as a right and duty): "Work is a right, a duty and a matter of honor 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".

Part III of the Constitution of Bangladesh recognized fundamental rights of workers as follows: According to Article 28(1) (Discrimination on the grounds of religion, etc.) - "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth."

According to Article 34(1) (prohibition of forced labor): "All forms of forced labor are prohibited and any contravention

of this provision shall be an offence punishable in accordance with law.”

According to Article 37 (Freedom of Assembly): “Every citizen shall have the right to assemble and to participate in public meetings and processions peacefully and without arms, subject to any reasonable restrictions imposed by law in the interests of public order or public health.”

According to Article 38 (Freedom of Association): “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.”²

I believe that economic condition of the developed world is now at the risk stages. They are trying to solve out their economical crisis. Our country is also not so far away to get impacts from this world crisis. So it is very much important to analyze the BLA 2006 and to understand and know the fundamental rights of workers essentially .It is also important to know whether such enacted Act is internationally cope with or not and whether it is enough to meet the demands of the workers or not, thus to realize the mechanisms through which worker could get minimum wages to meet their subsistence needs so that it does not give scope for various disputes between the employer and worker. We know that Labor Law 2006 is based almost entirely on statutes passed by the Parliament during last seventy years. Labor law is designed to control and govern the continuous process by which workers and management decide the terms and conditions of employment. It is therefore very much essential to know the Labor Act of fundamental rights of workers.

Methodology

This study was based on primary and secondary data. Initially, the work was started with Labor Act and data available in the Articles, Magazines, Journals, etc. Moreover, it became helpful

to gather some more information from the websites of Gtz, BILS. Later on, the work progressed through some depth discussions of good range of auditors as well to get necessary data from the area of the study. For the purpose of the research work practical experience was gathered by visiting the Labor Court, in Motijhil, Dhaka. Here the case collection and its judgments were not at all easy task. All these case numbers and judgments were in short given in the 'Labor Court' discussion. Then I had collected audit reports of few companies and tried to understand the practicality of the Labor Code on the workers. Then I analyzed that information by gathering them from many angles, in different aspect. I highlighted different important things, which was found during information collection.

Findings

The main purpose of the BLA 2006 was to consolidate and amend the existing law relating to labor and industrial affairs. I found those fundamental rights of the workers to increase relationship between labor and employers, to satisfy the lowest wages of the labor, to form the trade unions, to regulate the relations of any differences or disputes arising between labor and employers to protect the social security of labor including health, safety and welfare. But frequent hartals (or general strikes) in recent months continue to severely disrupt normal life of the people. Violent clashes leading to death or injury were quite common. These had serious implications for the growth of the economy and improvement of employment conditions. Women workers were entering in ever increasing numbers in the labor force, particularly in the service sector and export-oriented industries dominated by garments and textiles. But women continue to face discrimination and they dominate the low paid jobs. Labor law was there, but weak implementation capacity had resulted in frequent violations of

frequent violations of laws, poor working conditions, discrimination in employment, and high incidence of child labor. Labor Act of 2006 was there, but non-implementation had resulted in frequent violations of laws, poor working conditions, discrimination in employment, and high incidence of child labor I explored that labor law encourages and promotes those purposes by placing statutory limitation on employer interferences with the rights of the workers with self organizations and bargaining collectivity and because union, too, may abuse their power, labor law also acts to curb and control union activities. All the fundamental rights of the workers were consistent with ILO Convention standard.

Recommendations

- Ensuring proper enforcement of the BLA 2006 through the employment of more factory inspectors, and provision of other necessary facilities
- Publishing Rules relating to the BLA 2006 which have not been enacted two years after the Act came into force
- Establishing a body to enforce the National Building Code relating to safety of construction worker
- Publishing a National Occupational Safety and Health Policy setting out the actions that the Government must take to improve workers' safety
- Removing obstacles to free trade union activity and ensuring legal provision for free monitoring of work places by citizens' organizations
- Addressing labor disputes through tripartite (govt., employer and worker) discussions and as a priority, redressing the grievances of Jute mill workers such as settlement of arrears
- Establishing strong work-place monitoring mechanisms to reduce hazardous work in both the formal and informal and informal sector

-Taking measures to ensure effective investigation of allegations of violence against women

Acknowledgement

The author expresses sincere thanks to Md Monoarul Haque. No external funding was provided for this study.

REFERENCES

1. Fundamental Rights. Social Accountability International &ITGLWF(cited May 2015). Available from <http://www.itglwf.org/pdf/FundamentalRts-pp15-32.pdf>
2. bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id. Accessed on 25 July 2015