



Journal Homepage: -www.journalijar.com
**INTERNATIONAL JOURNAL OF
 ADVANCED RESEARCH (IJAR)**

Article DOI:10.21474/IJAR01/6175
 DOI URL: <http://dx.doi.org/10.21474/IJAR01/6175>



RESEARCH ARTICLE

VIOLATION OF LABOR RIGHTS IN BANGLADESH: IMPROVEMENT OF BANGLADESH LABOR LAW.

Md. Zikrul Alam Mandol.

LL.M on Economic Law, School of Law, Shanghai University of Finance & Economics.

Manuscript Info

Manuscript History

Received: 25 October 2017
 Final Accepted: 27 November
 2017 Published: December 2017

Key words:-

Labor rights Violations, Bangladesh,
 China, ILO, Labor Law & legislation

Abstract

The workers of Bangladesh from every sector have to face discrimination and violation in the respect of legal and rights that workers generally complain about low wages, delay in payment of wages, unsafe and unhealthy working conditions, no medical facilities, unjust termination and dismissal. RMG Industry has been the life-blood of the economy of Bangladesh that sector about 80% of the total export earnings of the country. Abusing of labor rights in this sector, Labor came down in the street and making insurgence on their demand and going to strike. Not only RMG Industry labor but also others Industry facing same problem and they are going to strike for their demand. As a result, many companies are losing working-hours and production targets and it also hampers export earnings and image of the country to international markets. If we discussions about Chinese worker rights that are protected by fairly comprehensive set of labor law and include requirements for minimum wages, overtime pay maximum working hour limits and safely working place, make social stability that there are no violence and no protections, If labor dispute is raise then it will be turned from something aggressive and unproductive to peaceful legal productive process.

In this article contains Violation of Bangladesh labor rights and how to good improvement strategy in Bangladesh labor law, following some development countries labor law, ILO and Chinese Labor law regulations. So, it also mention labor conditions of Bangladesh and abuse of labor rights and how it will be improve by support others law and regulations.

Copy Right, IJAR, 2017,. All rights reserved.

Introduction:-

Bangladesh with a population of 128.1 million people has a large and cheap labor force of around 60 million, comprised of 40 million agricultural jobs and 20 million non-agricultural jobs. All of employers are expected to carry out the government's labor laws that specify employment conditions, working hours, wage levels, leave policies, health and sanitary conditions and compensation for injured workers. But present situation the worker are not greeting proper rights in Bangladesh and government has not established enough development toward protecting basic worker rights, including the important rights of free expression and strengthening overall access to rule of law

for workers and civil society activists. Especially RMG Industry's¹ worker faces hazardous working conditions and an awful minimum wage. That's why workers are calling strike day by day. The reason behind the lack of enforcement of labor law is ignorance of employer and worker as well as the government's unawareness and unhealthy work environment, low wages, discrimination and many illegal practices in the workplace that are very common in Bangladesh.

If we see China labor conditions that workers are protected by a fairly comprehensive set of labor law that include requirements for minimum wages and overtime pay maximum working hour limits and safely working place, there are no violence and no strike, if labor dispute is raise then it will be turned from something aggressive and unproductive to peaceful legal productive process. If we see, Bangladesh labor law rights with Chinese labor rights that are so different. Abuse of labor rights that are created many problem in Bangladesh, it's also effect on economy. So Bangladesh labor rights can be improved by updating the framework and flowing Chinese labor law, International Organizations like ILO, then may be many problem will be solved of Bangladesh and can insure labor rights. The current Labor Acts of Bangladesh has been promulgated on the 11th October 2006 repealing 25 importance Labor laws after prolonged tripartite negotiations. It has introduced a good number of important items like retirement benefit, death benefit, appointment letter, and enhancement of compensation for both death and permanent disability, introduction of provident fund for workers etc. The labor law was amendment in 2006, but still has several serious deficiencies, including the wholesale exclusion of many classes of workers, high thresholds on the minimum number required to form a union, restrictions on the right to choose their own leaders also restriction on collective bargaining and several on the right to strike.

If we see the ILO annual report about Bangladesh that tens of thousands of workers employed in export processing zones have no rights to forms a union and are by law barred from talking to unions outside of the zones. Bangladesh amended labor law in July 2013 after widespread criticism following the collapse of the Rana plaza building², which killed more than 1,100 garment workers. Bangladesh is the largest exporter of clothing in the world after China. There are many garment industry that is the backbone of the development of the country, Bangladesh amended its labor law for protect worker's rights, but still now have those kinds of problem, can't improve industrial labor law, peace and social stability.

Threat, attacks against trade union workers:-

In Bangladesh, a good supply of relatively low cost labor and most of workers have working knowledge of English language, possess the basic skill of industries. They took technical training from universities, college, polytechnic institutions; technical training centers etc. their contributing in economy of Bangladesh that is incredible. But all of problems arise with workers, mainly the lower end workers face with all the hazardous jobs in hazardous environment. . In 2013, According to Human Rights Watch that The Bangladeshi government should stop garment factory owner from intimidating and threatening workers for organizing trade unions and prosecute those responsible for attacks on labor leaders³. The Human Rights Watch interviewed 47 workers in 21 factories around the Dhaka. The workers claimed that some managers intimidate and mistreat employees involved in setting up unions, including threatening to kill them and some union organizers said that they also beaten up and some had lost their jobs or had been forced to resign. In addition to that Factory owners sometime used local gangsters to threaten or attack workers outside the workplace even at their homes. There are more than 5,000 garments factories in Bangladesh. The government and BGMEA are failing to ensure compliance with labor law and sanction companies that abuse worker rights. The government clearly lacks adequate resources to properly regulate the over 5000 factories in its RMG sector. In most developing countries like Bangladesh that social compliance monitors perform examinations only about once a year, but government inspectors may visit once every ten years⁴. That's why governmental officials fail; trade unions can help to fill in the gaps for stronger labor safety standards.

Bangladesh amendment its labor law Act into 2016 to 2013 that's outlaws numerous "unfair labor practices" like, no employer shall, dismiss, discharge, remove from employment, or threaten to dismiss, discharge or remove from employment a worker, or injure or threaten to injure him in respect of his employment by reason that the worker is

¹RMG Industry (Readymade Garments Industry) are the finished textile product from clothing factories the Bangladeshi RMG Industry sector is one of the fastest growing sectors in the Bangladeshi economy.

² A garments factory building which was situated in Dhaka (capital of Bangladesh)

³ Bangladesh: protect Garment Workers Rights, www.hrw.org/news/2014/02/06/bangladesh-prorect-garment-workers-rights

⁴ See, article 7, page-700 , volume40/2 Brooklyn Journal of International Law, by Tamanna Rubya (2015)

or propose to become, or persuade any other person to become, a member or officer of a trade union.⁵ After all, to these situations, Human Rights Watch interviews with eyewitnesses recount threats, attacks against union workers in Dhaka from October 2013 onwards, “One female worker said that when the workers in her factory presented their union registration form to the company owner, he threw it in the dustbin then threatened the workers, saying he would never allow the union to start. After two weeks later, a group of men, including a local gangster and the owner’s brother, visited her home and threatened her and she agreed to resign”⁶.

Table1:- ILO conventions and Violation of Bangladesh⁷

Convention No.	Conventions	No. of Incidence of Violation
87	Freedom of association and Right to organize	82
98	Right to organize and collective bargaining	123
29	Forced labor	26
105	Abolition of forced labor	19
100	Equal remuneration	12
182	Worst forms of child labor	25

Bangladesh ratified ILO Convention on June 22, 1972 and expected to comply with the convention. Workers used to enjoy trade union rights under Industrial Relations Ordinance 1969. IRO 1977 made provisions of 30 percent member to form union, banned fulltime trade unionist who are not employed at the enterprises to become leaders and gave labor directorate unrestrained power to cancel registration of unions. All these provisions are the complete violation of ILO convention 87 and 98 which have ratified by Bangladesh government and ILO Committee of Experts on the Application of Convention and recommendation has noted serious discrepancies between labor law of Bangladesh and ILO core conventions ratified by Bangladesh⁸. So, labor law goes much further, but the laws are unenforced. One Survey finds that Bangladesh garments workers still face a number of problems such as compulsory long working hours, harassment by supervisors and the denial of the trade rights. There is no reason that democratic or representative unions cannot function in Bangladesh that assuming the government is willing to enforce its own laws and protect the workers’ rights to organize, as a result workers are not getting proper rights.

Lack of representative trade union & Weak collective bargaining:-

Lack of representative trade unions at the plant level that through which to express workers grievances or aspirations, caused these to pile up, ultimately causing dispute to escalate according to the view of point, In 2015 April, The European Commission’s Technical Status Report on the Bangladesh Sustainability Compact identifies legal barriers to effective unionizing and collective bargaining. These include the high minimum membership requirement of 30 percent of workers for a factory level union that limitations on trade unions rights to freely elect representatives, vague administrative powers to cancel union registration and serve limitations on the rights to strike⁹. So, Ineffectiveness of trade unions in Bangladesh results in massive destruction and causes tremendous loss to the economy as well as the disparity between the roles and authority of the employers association and trade unions means that proactive measures for the development of labor related issues such as wage, working condition.

The Section 202 of The labor act 2006 mentions about CBA¹⁰, that have rights undertake collective bargaining with the employer or the employer on matters connected with the employment, non employment or terms of employment, Represent all or any of the workmen in any proceedings, give notice of and declare a strike in accordance with provisions of the law and nominate representative of workmen on any committee, fund constituted as per the provisions of law or agreements. But, unfortunately, in Bangladesh, the government has a notorious reputation for

⁵ See, section: 195 of Bangladesh Labor Act 2013.

⁶ Bangladesh: protect Garment Workers Rights, www.hrw.org/news/2014/02/06/bangladesh-protect-garment-workers-rights

⁷ Source: The daily ProthomAlonewspaper, 1st January, 2012.

⁸ See, page,2 International labor Organization’s Conventions & Bangladesh Position and Needed Initiatives, By IsmatJarin Dina

⁹ See, April 21,2016 ,EaseRigid Union Law, Punish Union Busting, Bangladesh: GarmentWorkers Union RightsBleak

¹⁰ Collective Bargaining Agent, The previouslawrequired a trade union for being a CBA to consists of at least one- third of workers as itsmember, even if itis the onlytrade union in the establishment but the 2006 Act has made a direct provision that if thereremainsonly a single trade union, thenthatshallbetreated as the Collective Bargaining Agent.

suppressing trade union activity; as a result, collective bargaining in the country is very weak.¹¹ So, There are some factories have very few with both a union and a collective bargaining agreement that is not sufficient.

Insufficient wages for fulfilling of basic needs:-

The basic needs of the workers are food, clothing and shelter that one need to living life for everyday. But these are costly in the area where the factories are located. So the salary of workers is not extremely enough to fulfill these needs. In this case, they create labor unrest to establish the minimum wages. In November 2013, after workers' protests that forced about 250 garment factories to close, a government appointed minimum wage board voted to raise the minimum wage in the garment industry from 3,000 BDT (\$39) to 5,300 BDT (\$68), which amounted to an increase of 77 percent and Trade Unions had originally demanded 8,114 BDT, but the owners representatives were calling for a rise to just 3,600 BDT. However, as inflation was 7.5 percent in 2013 and persists to be approximately the same today, the wage increase has been in fact smaller in real terms due to an increase in living costs. Although, the increase is relatively considerable and the current minimum wage is still far from what is considered to be a living wage. But The Asia Floor Wage Alliance, a coalition of international trade unions and labor rights activists that has calculated a living wage in Bangladesh is 25,687 BDT (\$330) which takes into account some common factors including the number of family members to be supported, the basic nutritional needs as well as other basic needs such as housing, healthcare, education and some basic savings.¹² If we see the international organization, ILO that defines a minimum wage as "the minimum sum payable to a worker for performed or services rendered within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of national economic and social conditions"¹³ Under this table mention about work minimum wage in Bangladesh.

Table 2:- Worker minimum wage 2013, Bangladesh¹⁴

Basic	3000BDT
House Rent	1200BDT
Food Allowance	650BDT
Medical Allowance	250BDT
Travel Allowance	200BDT
TOTAL	5300 BDT \$68(USD)

However, in 2013, their success was relative since the increase of the minimum wage to the current BDT 5,300 still means that workers are not being paid a living wage. The workers are not satisfied with this wage policy fulfill to their demand. In December 2016, workers started demanding a tripling of their monthly minimum wage to between BDT 15,000 and BDT 16,000.

Table3:- Minimum wage in Bangladesh through the years¹⁵

1983	1994	2006	2010	2013	2017 ?
BDT 627	BDT 940	BDT 1,662	BDT 3,000	BDT 5,300	BDT 16,000?

The latest period of unrest in the Bangladeshi garment sector started on 12 December 2016 that Workers from the Windy Apparels Ltd factory went on strike, demanding an increase of the lowest wage to BDT 15,000 or BDT 16,000.¹⁶ So, the unrest soon spread to other factories in the area that led to 59 factories having closed their doors until the end of protests. Approximately, 150,000 workers to the streets to demand a higher wage that both factory

¹¹Hossain, supra note 101. According to a 2010 Labor Force Survey by the Bangladesh Bureau of Statistics, only about 3.88 percent of employees out of the total workforce were member of trade unions. Available at www.dhakatribune.com/business/2013/aug/28/right-form-trade-union-not-rmg

¹²<https://www.theseus.fi/bitstream/handle/10024/96244/Human%20Rights%20Violations%20in%20the%20Garment%20Industry%20of%20Bangladesh.pdf?sequence=1>

¹³ ILO, Resource guide for minimum wages, Retrieved from <http://www.ilo.org/public/english/support/lib/resource/subject/salary.htm>

¹⁴ See, minimum wage Board 2013 publishes Gazette: Basic salary Go Down, post on November 22, 2013 by research Initiative for social equity society.

¹⁵ See, Factsheet, February 2017 Wage Struggle in Bangladesh.

owners and government forces were forcefully repressing the non-violent protests. When workers were to return to their factories, between 1,600 and 3,500 found out they were dismissed on 20 December.

So, May be argument can be arise about minimum wage and basic needs that how it will be labor rights, Here I can argue that when workers can't their minimum needs for serve life that's must needed and essential for life , In this situations my thinking its rights of workers .

Lack of minimum facility and safety workplace:-

Garment sector of Bangladesh that is sub –standard living condition. Due to poor salary, the poor living conditions create job dissatisfaction of the workers that lead to labor unrest in this industry. Lacking of facility and safety workplace are providing that are creates labor unrest day by day. The new Act 2013 (amendments) present many weaknesses, especially for RMG factories, with respect to the new provisions related to safety protocols, ILO has expressed concerns that further regulations must be implemented in order to actually bring the 2013 amendment into practical effect¹⁷. International Labor Organization recommends that the next step for Bangladesh must be to focus on strengthening the government's labor and safety inspection capacity and developing necessary infrastructure¹⁸. So potentially substantive that there are also certain provisions are ambiguous. The insertion of subsection 90(a)¹⁹, calling for the formation of safety committees in factories with fifty or more employees is quite vague. So, Human Rights Watch has referred to these committees as “largely powerless bodies made up of management and workers and Bangladesh government has failed to properly define the roles of these committees in the amendment that introduces them²⁰”.

In Bangladesh a large number of workers work in RMG factories, unfortunately very few garments factory maintain the law but not every law. In addition to that most of factory does not ensure safety of the workers and workers work in unhygienic and hazardous environment, that's why the workers become sick. RMG and fire is closely related to each other, but most of the factory has no or very few fire extinguisher and the buildings are so congested.

ILO Convention ratified by Bangladesh:-

Bangladesh ratified this ILO Convention on June 22, 1972. As such Bangladesh is expected to comply with the convention. Workers used to enjoy trade union rights under Industrial Relations Ordinance (IRO) 1969. The right to form trade unions gradually decreased since 1975 in Bangladesh. This is because successive regime since 1975 curtailed the trade union rights, which were mandated by IRO1969. For instance Industrial Relations Rules of 1977 (framed under IRO1969) made provisions of 30 percent members form union, and gave labor directors huge power to cancel registration of unions. As a result these changes, labor unions could not flourish in garments industry. At present there are 139 unions out of the 7000 garment factories. Among these, only 20-25 are active and there are only 5 collective bargaining agreements²¹ But Bangladesh garments industry workers still face a number of problems such as compulsory long working hours, harassment by supervisors and the denial of trade union rights.

The role of the trade Union of China:-

The Chinese labor law requires to the ACFTU to serve two masters that to representing ‘the legitimate rights and interest of the workers’²² and it must assist the government and the CCP in ‘upholding the overall rights and interests of the whole nation. The LCL Art, 56 explicitly states that the union may take a labor dispute to arbitration or the court and otherwise act as an advocate in termination cases, LCL, Art, 43 and other disputes (Ronald C. Brown, 2010). The trade union's advocacy role on behalf of the employees, the ACFTU is to provide guidance and assistance to workers on obtaining individual labor and collective contracts and to advance workers' interests by

¹⁷ ILO Statement on Reform of Bangladesh Labor law supra notes 24. In addition to the ILO, the United Nations has also noted that ‘The amendments do not prohibit discrimination in employment or remuneration, nor do they prohibit debt bondage by children or compulsory labor as a form of punishment.’ Revised Bangladesh Labor Law “fall short” of International standards- UN agency, supra notes 69.

¹⁸ ILO Statement on Reform of Bangladesh labor law supra notes 24.

¹⁹ See: labor Act(amendment)-2013

²⁰ Ibid

²¹ International Labor Organization's Conventions & Bangladesh Position and Needed Initiatives Bangladesh ,Foreign Trade Institute, by IsmatJarín Dina (Research Associate)

²² See, art.2, trade union law, China

securing employers compliance with a variety of health, safety and labor law.²³ So, The ACFTU's responsibility is both to represent the employee's interests and to assist the employer in properly dealing with the matter to restore the normal order production that mediating solutions to the dispute. The union maintains this bifurcated loyalty by

serving on intra-enterprise mediation committees and the tripartite labor Arbitration Commissions, both of which seek to resolve disputes over employee's labor rights.²⁴

The worker's work 'independently', the ACFTU is admonished to 'concentrate on the focus of economic construction, adhere to the socialist road'²⁵ and its basic responsibility, and safeguard the rights and interests of workers. In addition to that Article, 7 of The Trade Union Law requires that 'trade unions should mobilize and organize employee to participate in the economic construction positively to complete production duties and working duties with great efforts.

If we see Bangladesh Labor rights that workers has rights to strike with arranging member of trade union. But it's not effective sometime and if worker greeting strike but it's not stable so many time. In 2013, According to Human Rights Watch that The Bangladeshi government should stop garment factory owner from intimidating and threatening workers for organizing trade unions and prosecute those responsible for attacks on labor leaders²⁶. Because Human Rights watch interviewed 47 workers in 21 factories around the Dhaka that the workers claimed, some managers intimidate and mistreat employees involved in setting up unions, including threatening to kill them and some union organizers said that they also beaten up and some had lost their jobs or had been forced to resign. In addition to that Factory owners sometime used local gangsters to threaten or attack workers outside the workplace even at their homes²⁷. So, there have Trade union but it's not active and workers are not greeting proper rights.

Collective disputes and Strikes:-

The meaning of spontaneity is that the strikes were not directed or the strike is only one form of collective dispute action and there are no national official statistics related to strikes in China. So, Collective dispute actions which took place in China in recent years display that 1st, there is a continuous rising trend in their number and the number of participants involved throughout the 1990s until mid 2000s²⁸ It must be noted that the number recorded in the NBSC included only the cases that have been filed for settlement officially through the tribunal and court system and it does not include collective actions such as those classified as sudden incidents, which have not been incorporated into the official labor dispute resolution mechanism, 2nd, in terms of the nature of collective disputes until the mid-2000s most were triggered by the violation of the economic rights of the workers that they were largely rights-based rather than interest based dispute and 3rd, the term of modes of organization of the collective disputes that spontaneity is one of its key characteristics controlled by organizations.

In addition to that labor dispute Resolution system in China that term begins with voluntary mediation then proceeds to compulsory arbitration and finally ends with appeals of the arbitration decision in civil court. This system was implemented at the national level for all enterprises in the 1994 Labor Law. Between 1995 to 2007 labor disputes increased, on average, by about 25% annually and in 2008, arbitrated labor disputes increased dramatically, almost doubling (Mary Gallagher, John Giles, Albert Park and Meiyang Wang, 2015).

²³ See, art.20-25, Trade Union Law, China

²⁴ See, article: 80, 81 of Chinese labor law & Articles: 10, 19 of Law on Labor Dispute Mediation and Arbitration.

²⁵ See, art. 4, Trade Union law

²⁶ Ibid

²⁷ Ibid

²⁸ See, National Bureau of statistics of China (NBSC)

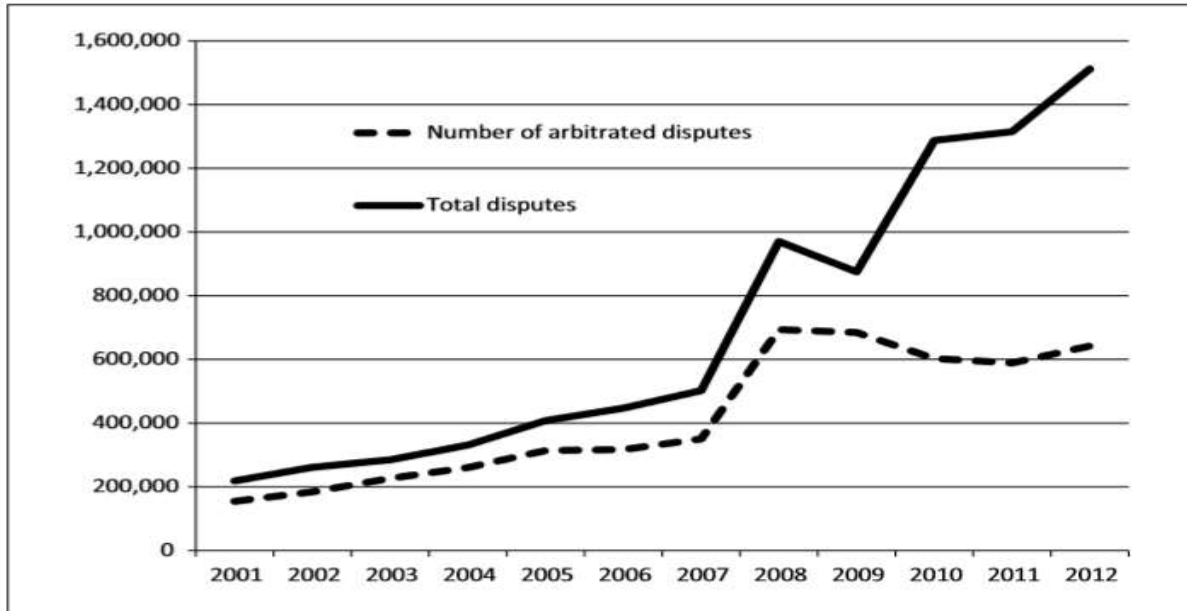


Figure 1:- Labor disputes, 2001 to 2012²⁹

In this figure show from 2008 labor disputes are increasing dramatically, but Chinese dispute resolution system that solving very fast according to the rule and regulation. In 2008, the labor Dispute Mediation and Arbitration Law further refined the existing procedures and clearly defined the rights and duties of mediation and arbitration committees. However, the process is much more fluid with the emphasis being placed by the authorities at all stages on mediation rather the more formal arbitration and litigation procedures, so, if a case does make it to a labor dispute arbitration committee (LDAC) or the civil courts the those institutions will often still urge the parties to a agree to a mediated settlement rather than issue a formal ruling, In 2014, the 711,004 cases settled by LADCs in China and nearly half (321,598 cases) were settled through mediation.

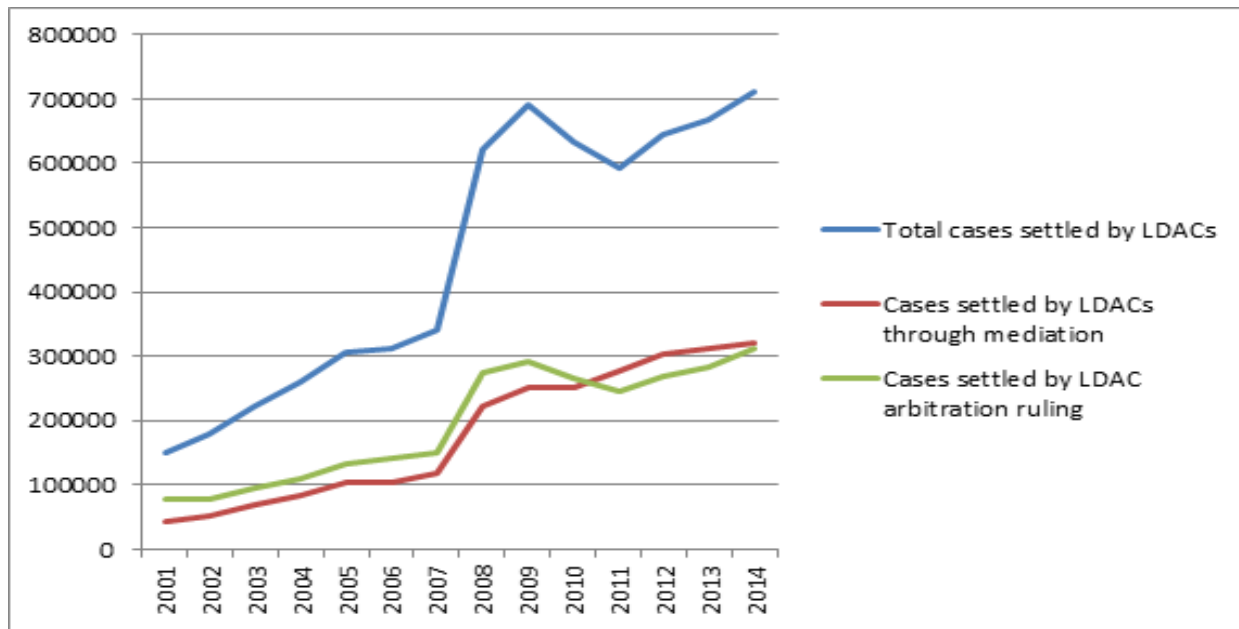


Figure 2:- Cases settled by LDACs, 2001 to 2014³⁰

²⁹See, China laborStatisticalYearbook and China labor net report, 2012.

³⁰See, China laborStatisticalYearbook and China labor net report, 2014.

So, in this figure show that mediation resolutions are more effective in present situation and the current emphasis on mediation in labor disputes reflects a shift towards mediation a shift towards mediated settlements in China's judicial system as a whole that more specifically it is a response to the sudden upsurge in arbitration and labor rights legal cases that followed the implementation of labor Contract Law and Labor Dispute Mediation and Arbitration Law in 2008. The total number of cases settled by LDACs more than doubled from 340,030 in 2007 to 711,044 in 2014 that the number of cases resolved by LDACs through mediation nearly trebled in the same period, increasing from 119,436 in 2007 to 321,598 in 2014³¹. In the view of point both laws gave workers additional ability and incentive to seek legal redress for labor rights violations.

Chinese Labor Contract strengthened and Individual Labor rights:-

In China, Individual labor contracts have become more comprehensive and formal following of the labor Contract Law that The Employers refusals to provide contracts to workers, particularly to members of vulnerable groups, like migrant workers, have been addresses and labor rights strengthened, (Ronald C. Brown, 2010). The New Labor contract law uses tripartite mechanisms that are country level and above, to study and resolve major issues arising from employment relationships.³² A written labor contract shall be concluded in the establishment of an employment relationship, the new law remain in force that clarifications and strengthened sanctions have been added, like all employment contracts must be written without part-timers³³ and If not the concluded and signed within 30 days then the employer must pay double wages for the period of the violation.³⁴ This law also established shorter probationary time limits that depending on the length of the contract between employer and employees, like maximum periods of one month for contracts three months to one year, two months for contracts of one to three years and six months for contracts of three years to longer or open- ended contracts³⁵. The probation period shall be included in the term of a labor contract. If a labor contract only provides the term of probation, the probation shall be null and void and the term of the probation shall be treated as the term of the labor contract.³⁶

When an employer hires an employee then must inform to employee of the workers contents, conditions and location, work safety state with the term and condition.³⁷ There are three types of contracts that are- fixed term, open-ended term and project contracts.³⁸ If workers employed for longer than ten years, it entitled to an open-ended contract and workers whose second consecutive term expires will be entitled an open-ended contract, if they have so demand as well.³⁹ According to the contract law that an employer cannot keep a worker's ID card or require a security payment by a worker.⁴⁰ In addition to that employment agencies cannot require a fee to be paid by the worker⁴¹ and the employment cannot disguise overtime⁴² and the most worker-liquidated damage provisions are prohibited⁴³ and also prohibited are acts of violence, threats, unlawful restriction of personal freedom to compel a worker to work according to the rule and regulation of Chinese contract law. The obligations of the accepting unit also include implementing government labor standards, working conditions and labor protection, paying overtime and performance bonuses and providing training necessary for the job position⁴⁴ and also Par-time workers are limited that it's not more than four hours per day or twenty-four hours per week.⁴⁵ The worker's wages are usually paid on an hourly basis and must meet local minimum wage standards.⁴⁶

The labor laws and regulations with the Contract Law as representative were drafted, enacted, promulgated and implemented that a fierce debate has been triggered in the whole society and there are different voice the

³¹ See, China's labor dispute resolutionsystem ,Availableat: <http://ww2.fwa.gov.au/manilafiles/files/international/Chinacountrypaperword091112.pdf>

³² See, art. 5 of LCL

³³ See,art.10 of LCL

³⁴ See, page, 37 of Understanding Labor and Employment Law in China, by Ronald C. Brown

³⁵ See, art.19 of LCL

³⁶ See, art.19 of LCL

³⁷ See,art.8 of LCL

³⁸ See, art. 12 to 15 of CLC

³⁹ See, art.14 of CLC

⁴⁰ See, art. 9 of CLC

⁴¹ See,art.60 of CLC

⁴² See, art. 31 of CLC

⁴³ See, art.25 of CLC

⁴⁴ See, art.67 of CLC

⁴⁵ See,art.68 of CLC

⁴⁶ See,art.72 of CLC

government, labor union, the law circle, the circle of economics to the business world and workers. Other side, supporters believe that the new labor policies and legislation are powerful weapons for protection of worker's rights and interests and are good to make labor relation more harmonious⁴⁷. So, other hand, opponents say that the new labor laws and legislation are going too far and the new labor law policies and legislation try to break restriction of system that administer labor relations with the same standard and establish equal labor relations in which people get the same pay for the same job.

Chinese workplace safety and minimum wage standard implemented:-

In China, Protecting workplace safety and health by laws and labor standards that prevent accidents, death and occupational diseases is an increasing priority as the number of workplace-related deaths and accidents continues, in 2007, SAWS⁴⁸ reported that there were 88,923 work related fatalities and 457,000 accidents in this year.⁴⁹ In 2001, the government passed the law on Prevention and Treatment of Occupational Disease that requires certain preventive medical procedures and replacement of dangerous technology and materials, after that Work Safety Law was added in 2002, which requires worker education and training before starting a job for which proper protective equipment is provided. In 2008, the State Council's Decree No, 516 repealed several administrative laws, a number of which had governed labor and work safety.

In China, the Ministry of labor and social security passed 'the minimum wage regulations' and promulgated the new law on January 2004. This reform emphasized the following major changes that are a) an extension of coverage to town-village enterprises and self-employed business, b) creation of new standard for hourly minimum wages, c) an increase in the penalty for violators from 20% - 100% to 100%-500% of the wage owed, d) more frequent minimum-wage adjustment once at least 2 years.⁵⁰ The 2008 labor contract law requires that employment contracts include a term on labor compensation.⁵¹

The minimum wage stander as the least labor remuneration paid by the employers required by law on condition that the labors have provided normal labor during the legal working hours agreed by the labor contract.⁵² Wage distribution method remains within the discretion of the employer that the minimum and maximum standards are adjusted at least every two years by the government,⁵³ and a monthly rate is to be used for full-time employees and an hourly rate for other employees.⁵⁴ In addition to that the part-time workers are to be paid the minimum wage or remuneration that mainly calculated on hourly basis. In China, Monthly Minimum Wages are increased to 2300 CNY (USD333) in 2017 from 2190(US\$327) CNY in 2016. Previous time in China averaged 1420 CNY from 2006 until 2017 that reaching an all time high of 2300 CNY in 2017 and recorded low of 690 in 2006.⁵⁵

⁴⁷ See, latest changes of labor policies and legislation in china and its impact on labor relations Available at: <https://www.ilera2015.com/dynamic/full/IL172.pdf>

⁴⁸ The State Administration of Worker Safety

⁴⁹ See, page,105 of Understanding Labor and Employment Law in China, by Ronald C. Brown

⁵⁰ See, Minimum Wages and Firm Employment: Evidence from China, by Yi Huang, Prakash Loungani, and Gewei Wang, available at <https://www.imf.org/external/pubs/ft/wp/2014/wp14184.pdf>

⁵¹ See, art.17 of LCL

⁵² See, art. 3 of RMW

⁵³ See, art.10 of RMW

⁵⁴ See, art.68 of LCL

⁵⁵ Ibid.

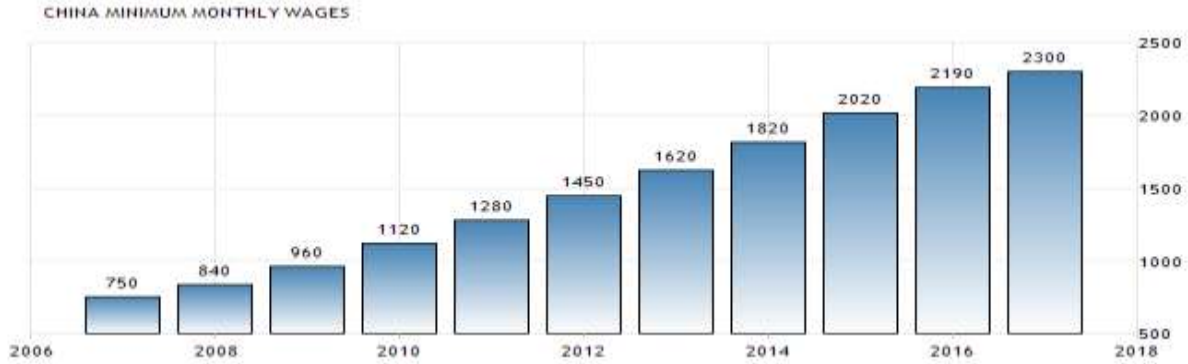


Chart1:- China Minimum Monthly Wages⁵⁶

In China, there is not found more labor unrest in factory or industry. Recently, The Chinese labor law is more effective in protect the labor rights according to the term and condition of rule and regulation, it's also led to an increase in the awareness among workers of their rights as evidenced by a sharp rise an in labor dispute case filed. ShenDeyong⁵⁷ told a Beijing press conference on 3 March that the number of labor related lawsuits filed in 2008 jumped by 95% compared with 2007 and the international financial crisis too shakes the government's commitment to improving labor rights. So, Chinese labor law and state policy that collective labor rights are done restrict, as a result China ensure protect worker rights and ensure industrial peace, social stability. If we see the individual rights that are strengthen by the rule and regulation, as a result China Improve industrial labor law and protect labor rights.

However, If we analysis Bangladesh labor rights and Chinese labor rights that Chinese labor law ensure protect their labor rights, but Bangladesh can't ensure protect their labor right and improve industrial labor law, there are different problem to established industrial peace and social stability. The abuse of worker rights in Bangladesh, the worker are threaten, attacks by factory owner and although, the trade union is independent, but lack of representative of trade union, weak collective bargaining is major problem, In addition to that basic rights like minimum wage, lack of safety work place and minimum facility, for this reason labor unrest are common in Bangladesh industrial sector. The labor law is not protecting worker rights and they are calling strike for long time, as results it effect are falling on economy of Bangladesh. Above this discussion of Chinese legislation Strategy in labor law that May good strategy to improve Bangladesh labor law in present situation.

Improvement Bangladeshi labor law to taking Some Chinese labor law strategy:-

I think that if Bangladesh allowed all trade unions or peak trade union like China then labor may be worker get proper rights and they can complain to peak trade union for any problem, Bangladesh can through this process in labor law. There are many strategies of Chinese legislation in labor law to protect labor rights, Chinese collective labor rights play vital role to protect labor rights , as like the trade union in China must be affiliated with ACFTU and is regulated by law, that through unity of all trade union and it is the peak of trade union.

Bangladesh also can take dispute resolution system to protect labor rights. In China, if worker make dispute, dispute resolution system very fast according to the rule and regulation. In 2008, the labor Dispute Mediation and Arbitration Law further refined the existing procedures and clearly defined the rights and duties of mediation and arbitration committees. However, the process is much more fluid with the emphasis being placed by the authorities at all stages on mediation rather the more formal arbitration and litigation procedures, so, if a case does make it to a labor dispute arbitration committee (LDAC) or the civil courts the those institutions will often still urge the parties to a agree to a mediated settlement rather than issue a formal ruling⁵⁸

Bangladesh should take this kinds of mechanism for protection labor rights and improving its labor law that Labor contract strengthened and labor dispute system in Chinese labor law that The New Labor contract law uses tripartite mechanisms that are country level and above, to study and resolve major issues arising from employment

⁵⁶ Availableat <http://www.tradingeconomics.com/china/minimum-wages>

⁵⁷ Vice president of the SupremePeople's Court

⁵⁸ Ibid

relationships.⁵⁹ A written labor contract shall be concluded in the establishment of an employment relationship, the new law remain in force that clarifications and strengthened sanctions have been added, like all employment contracts must be written without part-timers⁶⁰ and If not the concluded and signed within 30 days then the employer must pay double wages for the period of the violation.⁶¹ This law also established shorter probationary time limits that depending on the length of the contract between employer and employees, like maximum periods of one month for contracts three months to one year, two months for contracts of one to three years and six months for contracts of three years to longer or open-ended contracts⁶². The probation period shall be included in the term of a labor contract. If a labor contract only provides the term of probation, the probation shall be null and void and the term of the probation shall be treated as the term of the labor contract.⁶³

The labor Contract law provides on work safety and the measures taken to prevent occupational hazards included in the labor contract⁶⁴ and also requires that the employer to inform employees as to working conditions, occupational hazards and production safety conditions.⁶⁵ The union and other employee organizations have rights to supervise safety matters.⁶⁶ China put place its work related Injury Insurance Regulations in 2004 that cover work-related injuries, disability or death as well as occupational diseases and remedies are exclusive, but law permits a suit in tort for employer safety violations and Employee waivers of coverage are prohibited⁶⁷ that though negotiated settlements for injuries are permitted if not deemed unfair by the court according to the rule and regulation. If we see the minimum wage standers in China that Wage distribution method remains within the discretion of the employer that the minimum and maximum standards are adjusted at least every two years by the government,⁶⁸ and a monthly rate is to be used for full-time employees and an hourly rate for other employees.⁶⁹ In addition to that the part-time workers are to be paid the minimum wage or remuneration that mainly calculated on hourly basis. However, I think that according to process, Bangladesh can improve its labor law to following these kinds of good strategy of Chinese labor law.

Conclusions:-

In this Article, above this discussion of Chinese strategy in labor law that did restrict its collective labor rights and strengthen its individual labor rights and China ensure it's protect labor rights, establish industrial peace, social stability and improve industrial law. On the other side, Bangladesh has its own labor law, but it's couldn't protect labor rights and workers unrest are increasing day by day. Especially, Bangladesh garments industry's workers are going to strike for their minimum demand. Bangladesh government till now cannot ensure minimum wage, although in 2013, wage board of Bangladesh was relative since the increase of the minimum wage to the BDT 5,300, but the workers are not satisfied with this wage policy fulfill to their demand, So, In December 2016, workers started demanding a tripling of their monthly minimum wage to between BDT 15,000 and BDT 16,000. Although Bangladesh government taking different policy to protect labor rights, but it's not enough for development labor law of Bangladesh, in this article provided legislation strategy that is good strategy to improvement of Bangladesh labor law.

⁵⁹Ibid

⁶⁰Ibid

⁶¹Ibid

⁶²Ibid

⁶³Ibid

⁶⁴See ,art.17 of LCL

⁶⁵Ibid

⁶⁶Ibid

⁶⁷Ibid

⁶⁸Ibid

⁶⁹Ibid

References:-

1. The Bangladesh Labor Act-2006
2. The Bangladesh Labor Act-2013(Amendment)
3. Labor Law of People's Republic of China-2008
4. Labor Law of the People's Republic of China- 2009
5. Labor Contract Law of People's Republic of China (Amendment 2012)
6. Labor Law of People's Republic of China-2014
7. Trade Union Law of the People's Republic of China-1992(Amendment, 2001)
8. Employment & Labor Law of China-2016
9. Ronald C. Brown, (2010), Understanding Labor and Employment Law in China.
10. Ahmed, Hossain and Khan, A. K. (2011), Building trade union unity in Bangladesh: Status (in) effectiveness factor and future strategies, Bangladesh working condition, Public and private trade union in Bangladesh, Retrieved from: http://www.nationsencyclopedia.com/economics/Asia_and_pacific/Bangladesh.
11. Chris King-Chi Chan (2008), the Challenge of Labor in China: Strikes and the Changing Labor Regime in Global Factories.
12. Yu Xiaomin (2006), "Putting Corporate Codes of Conduct Regarding Labor Standards in a Global-national-local Context: A Case Study of Reebok's Athletic Footwear Supplier Factor in China"
13. Feng Chen (2007), "Individual rights and Collective rights: Labor's predicament in China", Communist and Post-Communist Studies vol, 40(2007) pg.59-79
14. Mary Gallagher, John Giles, Albert Park and Meiyang Wang (2015), "China's 2008 labor Contract Law: Implementation and implications for China's workers, Journal: human relations, 2015, Vol.68 (2)197-235.
15. Kai Chang and Fang Lee Cooke (2015), "Legislating the rights to strike in China: Historical development and prospects", Journal of Industrial Relations, 2015, Vol.57 (3) 440-455.
16. Sean Cooney (2010), "China's labor Law, Compliance and Flaws in Implementing Institutions", Journal of Industrial Relations, Vol.49 (5)673-686
17. Qiu Yang (2005), "ILO Fundamental Conventions and Chinese Labor Law: From a Comparative Perspective" Student of National University of Singapore.
18. Yu Fu Chen and Michael Funke (2009), "China's new labor Contract Law: No harm to employment?" Journal: China Economic Review, 20(2009) 558-572.
19. Syed Zain Al-Mahmood (2013) "Workers Granted More Leeway to Form Trade Unions" The Wall Street Journal, Updated July 15, 2013 1:54 pm.
20. Tamanna Rubya (2015), "The Ready-Made Garment Industry: An Analysis of Bangladesh labor law provisions After the Saver Tragedy" Brooklyn Journal of International law, Volume-40/2.
21. Jakir Hossain Mostafiz Ahmed Afroza Akter, (2010), BANGLADESH LABOUR LAW: Reform DIRECTIONS ,Association with BILS Research and Advisory Team , November 2010
22. Madeleine Jalava (2015), Human Rights Violations In the Garment Industry Of Bangladesh, page, 35
23. Baker & McKenzie (2008), China Employment Law Update, June 2008.
24. Richard Freeman, Xiaoying (2013), Has China's new labor contract law worked? Available at: [www.http://voxeu.org/article/has-china-s-new-labour-contract-law-worked](http://voxeu.org/article/has-china-s-new-labour-contract-law-worked)
25. Yi Huang, Prakash Loungani, and Gewei Wang (2014), Minimum Wages and Firm Employment: Evidence from China.
26. Chang Kai, (2002), WTO, labor standards and labor interests safeguard, Chinese social science.
27. Labor Rights and Factory Safety in Bangladesh, Available at <https://www.dol.gov/ilab/trade/preference-programs/bangladesh-gsp.htm>
28. Shaheen Ahmed, Mohammad Zahir Raihan and Nazrul Islam (2013), "labor Unrest in the Ready-Made Garment Industry of Bangladesh", International Journal of Business and Management; Vol.8, No.15; 2013.
29. Bangladesh: Garment Workers Union Rights Bleak, (April 21, 2016), Ease Rigid Union Law, Punish Union Busting, available at <https://www.hrw.org/news/2016/04/21/bangladesh-garment-workers-union-rights-bleak>.
30. Bangladesh garment factories sack hundreds after pay protests, <https://www.theguardian.com/world/2016/dec/27/bangladesh-garment-factories-sack-hundreds-after-pay-protests>
31. <http://www.tradingeconomics.com/china/minimum-wages>
32. <http://www.clb.org.hk/content/wages-and-employment>
33. China's new work place Safety Law takes Effect, by Roy Maurer 1, 2014, available at <https://www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/china-workplace-safety-law.aspx>

34. Create a safe workplace or pay the price: China amends the PRC workplace safety law, by Winston and Strawn LLP, available at <http://www.lexology.com/library/detail.aspx?g=77f3c523-d258-44a3-b2c1-fe80f450de9b>
35. China's new workplace safety law takes effect, by Roy Maurer 1, 2014, available at <https://www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/china-workplace-safety-law.aspx>
36. <https://www.imf.org/external/pubs/ft/wp/2014/wp14184.pdf>
37. Latest changes of labor policies and legislation in China and its impact on labor relations Available at: <https://www.ilera2015.com/dynamic/full/IL172.pdf>
38. Workers to get power to negotiate, Union says, Xiaofeng, CHINA DAILY, May 25, 2007, <http://www.chinadaily.com.cn/china/2007-05/25/content>
39. <http://lawteacher.net/free-law-essays/employment-law/the-labor-rights-in-Bangladesh> -employment-law-essay.php
40. ILO, Resource guide for minimum wages, retrieved from <http://www.ilo.org/public/english/support/lib/resource/subject/salary.htm>