

HIDDEN, UNPROTECTED & VULNERABLE

Supporting Vulnerable Informal RMG Workers in Bangladesh

Law and Policy Analysis Study of the Informal Apparel and Ready-Made Garment (RMG) Sector

POLICY BRIEF | MAY 2021

This policy brief presents key findings and recommendations from a law and policy analysis study conducted by **NORC at the University of Chicago** to map out the existing legal framework pertaining to the Apparel/RMG industry and **analyze any gaps in this framework, with a focus on informal workers.**

NORC's research focused on the informal sector and answered nine research questions, grouped into four thematic areas: (i) gaps in Bangladesh's legal framework; (ii) barriers to enforcement in the informal sector; (iii) role of law and prosecution in reducing prevalence; and (iv) coordination and institutional strengthening to prevent labor exploitation and abuse in the informal RMG sector.

OVERVIEW



Bangladesh is the second largest textile and garment products exporter in the world and its RMG industry employs millions of workers, accounting for 83 percent of export earnings.

In the years since the Rana Plaza disaster, labor standards in formal factories have improved as international buyers formed the Accord on Fire and Building Safety in Bangladesh (the Accord) and the Alliance for Bangladesh Worker Safety (the Alliance) to promote better working conditions, escalate factory inspections, and demand greater accountability.

Labor standards in informal apparel factories that produce for domestic demand or work as under-the-table sub-contractors for formal, export-oriented factories do not face the same levels of scrutiny and enforcement of labor laws as their formal, export-oriented counterparts. Increased factory inspections and greater accountability have played a crucial role in these improvements in the formal apparel manufacturing sector.



RESEARCH METHODS



SEPTEMBER 2020

STEP 1

Law & Policy Desk Review



42

Existing laws and policies impacting Bangladesh RMG sector, academic and gray literature, research reports



Systematic content analyses and mapping of legal framework



STEP 2

Semi-structured Key Informant Interviews (KIIs)



15

Virtual & In-person KIIs with representatives from the government, legal sector, international brands, employers' associations, informal sector representatives, and donors/NGOs



APRIL 2021

KEY FINDINGS AND RECOMMENDATIONS

**KEY FINDING 1: Gaps in the Bangladesh Labor Act (BLA) and other laws and policies threaten worker welfare.**

The BLA does not provide a comprehensive mechanism to deter labor exploitation and may block workers from engaging with union activities. Gaps in the legal framework pose risks to occupational health and safety (OHS), and to employment rights of workers with disabilities.

WHAT WE FOUND

The BLA lacks significant penalty and fine mandates. As a result, the primary labor inspectorate, the Department of Inspection for Factories and Establishments (DIFE), is not adequately empowered to undertake its mandate.

Existing legislation may block workers from unionizing. The BLA permits workers to form a trade union but does not allow workers to form a union with fewer than 100 workers. This directly affects most informal factories that employ few workers. The BLA also requires that a third of the factory's workforce be registered with the union to gain government recognition, making it challenging for factories with a large number of workers.

Gaps in the legal framework pose risks to occupational health and safety (OHS), and employment rights of workers with disabilities. The BLA does not provide detailed guidance to regulate training on and use of personal safety equipment. Under the BLA, a worker who becomes disabled on the job has no right to alternative employment. Moreover, a worker may be discharged for reasons of physical or mental incapacity or continued ill-health, even if they are capable of carrying out their responsibilities.

The existing legal framework allows for non-regular hiring arrangements. This allows employers to avoid unionization and paying benefits.

The BLA lacks specific provisions on discrimination related to workplace facilities, treatment of non-wage issues (e.g., promotion and placement), and other grounds of discrimination such as race, origin, religion, political beliefs, ethnic group or disability status.

The BLA does not provide a strong enforcement mechanism for its child labor provisions. The prohibition of child labor in the BLA contradicts the provision that allows the employment of children who are 12-14 years old in "light work". The Ministry of Women and Children Affairs (MOWCA) and Ministry of Labor and Employment (MOLE) do not coordinate to implement child labor laws. Finally, factories with fewer than 40 women workers are not required to provide daycare facilities.

There is no active authority to oversee labor law compliance in the informal sector. Various stakeholders tend to overlook the informal sector since there is little pressure from the international community or other authorities.



RECOMMENDATIONS

Recommendations for legal reform:

Impose stronger penalties for labor violations including child labor. Enhance the executive authority of DIFE.

Relax provisions regarding formulation of trade unions.

Improve OHS training facilities and adopt policies ensure equal worker rights to persons with disabilities.

Broaden discrimination provisions to include non-wage issues and protect additional classes of workers.

Repeal the clause that allows for the employment of children ages 12-14. Improve coordination between MOLE and MOWCA. Mandate that employers provide daycare facilities.

Assign an inspection and monitoring authority for the local garment sector.



KEY FINDING 2: Lack of enforcement is the principal barrier to legal framework application in the informal sector.

Insufficient enforcement arises due to capacity gaps of inspection agencies, factories, and workers. Political will is also a barrier.

WHAT WE FOUND

DIFE faces capacity barriers to inspecting factories including lack of personnel, inadequate resources, and insufficient power to directly and immediately fine non-compliant factories. It is also challenging for inspectors to enter informal clusters and know where unregistered factories are located.

Informal factories lack awareness of labor and safety laws and funding to comply. Factory owners perceive that the consequences of non-compliance are not severe enough to bear costs of compliance, particularly because they perceive little threat of enforcement.

Informal garment workers may not be aware of their rights related to wages, overtime hours, and workplace safety standards. They also lack the power, resources, and knowledge to file cases against non-compliant employers.

Workers are rarely aware that they can file cases, and thus often fail to do so. However, respondents noted that trade unions and NGOs can sway factories when they threaten legal action on behalf of workers.

Labor reform efforts often overlook the informal sector. Pressure by international brands for more ethical production has led to improvements in labor conditions in the formal sector. However, this pressure does not necessarily translate to informal sub-contractors, who are not directly accountable to buyers.



RECOMMENDATIONS

Recommendations for strengthening the government and inspectorate:

Create stronger punishments for violations. Grant DIFE on-the-spot power to impose fines and withdraw factories' DIFE licenses, access to gas and electricity, and trade licenses.

Streamline coordination among government stakeholders such as DIFE, the metropolitan police departments, City Corporation, and Home Affairs Ministry. Coordination could mean sharing access to enterprise registration systems or ensuring workplaces are safe before administering government services such as trade license provision or tax collection.

Recommendations for strengthening factories:

Raise awareness of labor laws among factory owners to increase compliance. However, given that violations are often a result of lack of willingness to apply labor laws in addition to lack of knowledge, accountability initiatives will also be necessary.

Smooth pathways to formalization. Rather than immediately imposing fines and taxes on newly registered factories, provide positive incentives for factories to formalize including access to trainings, capacity-building services, and financing.

Recommendations for strengthening informal garment workers:

Increase workers' awareness of labor laws. Inform workers of their rights so they can know how and when to push back against illegal wage, overtime, and safety practices. Such awareness-raising initiatives could take place through unions where possible.

In the absence of unions, empower NGOs and other local worker groups. The enabling environment for unions is weak, potentially limiting their capacity to advocate for workers and disseminate information about labor laws. Donor organizations and international actors should help local NGOs raise awareness among and advocate for workers if engaging unions is not a possibility. Strengthen the capacity of NGOs, workers, and trade unions to file cases against employers.



KEY FINDING 3: Goals set out in the National Plan of Action (NPA) for Prevention and Suppression of Human Trafficking 2018-22 can be adapted and applied to other anti-trafficking organization programs, but limited awareness among stakeholders is the biggest challenge.

There is a need for increased awareness about the NPA, greater involvement of NGOs and other stakeholders, and stronger government inter-agency collaboration.

WHAT WE FOUND

Various NPA documents released over the last two decades are meant to be guiding documents for all actors involved in anti-trafficking activities, however, they are not publicly available. NPA implementation is led by the Ministry of Home Affairs, and involves multiple other ministries but limits NGO and other stakeholder participation.

The NPA prioritizes developing social and economic safety-nets to prevent human trafficking. In addition, it includes specific interventions to build the capacity of implementing agencies, combat trafficking in children, and strengthen the legal provisions for prosecuting traffickers.

Majority of stakeholder groups interviewed had never heard of the NPA. Those familiar with the NPA noted the disconnect between the high level policy in the NPA and actual impacts on informal factories.

Many important provisions and activities of the NPA have not been fully implemented yet. These include:

- Enhancing victim care interventions and operating the seven anti-trafficking tribunals to provide access to justice for survivors and victims of trafficking

- Activating the National Fund for mobilizing resources to combat trafficking

- Institutionalizing the National Authority to Suppress and Prevent Human Trafficking to coordinate all anti-trafficking interventions in Bangladesh



RECOMMENDATIONS

Recommendations for the government:

NPA should be made publicly available for NGOs, other anti-trafficking stakeholders, and vulnerable populations and trafficking survivors.

NPA needs better provisions to engage a wide variety of organizations implementing anti-trafficking programs, labor leaders, and other entities working for labor rights.

All provisions of the NPA should be implemented. Most importantly, institutionalizing the National Authority to Suppress and Prevent Human Trafficking will ensure better cooperation, monitoring and implementation of NPA stipulated anti-trafficking efforts.

There is a need for coordinated efforts to collect and maintain a centralized human trafficking database. A publicly available centralized, well-maintained database including anti-trafficking law enforcement data, legal prosecution data and victim protection data would help monitor progress toward achieving NPA objectives. This data would also be useful for NGOs implementing anti-trafficking interventions who can adapt their programs based on where progress is limited.



KEY FINDING 4: The practice of indirect sourcing through sub-contractors without an effective regulatory framework has undermined wages and working conditions in the informal garments sector.

Transparency of supply chains is necessary to encourage better compliance with worker safety standards, even in smaller, informal factories that are likely operating as unauthorized sub-contractors¹.

WHAT WE FOUND

Indirect suppliers operate on tight margins and are subject to wide fluctuations in demand.

These factories are also not subject to any compliance standards or the Accord/Alliance worker safety guidelines, making them more likely to have exploitative labor conditions and workers trapped in forced labor situations.

The responsibility for compliance with worker safety guidelines falls on the supplier, as buyers ask them to sign guarantees that all factories will be inspected and meet the same high workplace standards specified in the brand's code of conduct.

Buyers often increase orders with fast turnaround times without re-evaluating capacity, creating a gap that is often closed by unauthorized sub-contracting.



RECOMMENDATIONS

Recommendations for buyers/brands:

Increase monitoring of formal supplier factories to discourage suppliers from resorting to unsafe labor arrangements, for example, through unannounced visits by buyer representatives.

Disclose the list of suppliers publicly, and also work with suppliers to disclose their sub-contractors to increase accountability and transparency about operations.

Recommendations for the government:

Develop appropriate sub-contracting business guidelines to regulate the garments supply chain and encourage compliance with established worker safety standards, therefore, minimizing worker exploitation in informal factories.

¹ Unauthorized sub-contractors refer to garment factories that may not be authorized for production by the buyer/brand. They are subject to almost no regulation or oversight and are typically noncompliant with minimum standards for safety and workers'

For more information contact NORC at the University of Chicago