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## **Legal Status of the Rural and Agricultural Workers in Bangladesh**

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## **I. INTRODUCTION**

The industrial base of Bangladesh is very weak. Big industries such as fertilizer, jute, sugar, paper etc. are few in number and most of these are in the public sector. Ready-made garments, leather, pharmaceutical, toiletries, etc. are in the private sector. The backbone of the economy of Bangladesh is agriculture. The majority of the country's poor are rural workers, whether they be wage earners, self-employed subsistence owner-occupiers or landless labourers. More than three quarters of the population is directly or indirectly related with agricultural production. The vast majority of the rural womenfolk work directly in agricultural production either as owners or as paid workers. Sixty-five percent of the farmers are landless. They work on land owned by others on very complicated production sharing contracts. Poverty is wide spread in the rural area and as such the agricultural sector is very vulnerable. An increase in the cost of the inputs eg. seed, fertilizers, insecticides, fuel and electricity or a loss or a fall in price of any crop puts the farmer in great distress.

The number of agricultural workers as stipulated in the Statistical Year Book, 2000 published by Bangladesh Bureau of Statistics (the latest publication by the Government as on 10th April, 2003), is as follows :

Employment in Agriculture	:	36.7 Million
Employment in Non Agriculture	:	21.4 Million

In the labour force survey, some specific activities such as plowing, irrigation, planting, weeding, hoeing, harvesting, threshing, husking, drying, boiling, poultry, growing of vegetables and spices, processing and preservation of food etc. were taken into consideration as economic activities.

## **II. LAWS RELATING TO RURAL WORKERS**

There is no law governing the terms and conditions of employment of the rural workers. The unfortunate rural worker especially the agricultural worker does not get any protection of the labour laws. Agricultural labourers are deprived of the benefits such as pay scales, overtime allowance, leave and holidays, provident fund facilities, bonuses and all other benefits. The only law relating to Agricultural workers is the Agricultural Labour (Minimum Wages) Ordinance, 1984. This is also not an effective law.

## **III. LEGAL STATUS OF AGRICULTURAL WORKERS**

In order to have a comprehensive idea about the legal status of agricultural workers in Bangladesh we may consider the following, viz., how far the agricultural workers are protected by labour laws in terms of service conditions, freedom of association, collective bargaining, working conditions etc.

The law regarding conditions of service of workers in Bangladesh is the Employment of Labour (Standing Orders) Act, 1965. It defines a worker as follows :

“ worker means any person including an apprentice employed in any shop, commercial establishment or industrial establishment to do any skilled, unskilled, manual, technical, trade promotional or clerical work for hire or reward, whether the terms of employment be expressed or implied, but does not include any such person

- who is employed mainly in a managerial or administrative capacity; or
- who, being employed in a supervisory capacity, exercises, either by nature of the duties attached to the office or by reason of power vested in him, functions mainly of managerial or administrative nature.”

Section 4 of the said Act classifies workers of commercial, and industrial establishments as follows:

- apprentices,
- badlis,
- casual,
- permanent,
- probationer and
- temporary.

According to the definition

- an “apprentice” means a learner who is paid an allowance during the period of his training;
- ‘badli’ means a worker who is appointed in the post of a permanent worker or of a probationer who is temporarily absent;
- ‘casual worker’ means a worker whose employment is of clerical nature;
- ‘permanent worker’ means a worker who has been engaged on a permanent basis or who has satisfactorily completed the period of his probation in the shop or the commercial or industrial establishment;
- ‘probationer’ means a worker who is provisionally employed to a permanent vacancy in a post and has not completed his period of his probation; and
- ‘temporary worker’ means a worker who has been engaged for work which is essentially of a temporary nature and is likely to be finished within a limited period;

The above definition and classification relate only to workers employed in shops, commercial establishments and industrial establishments and these do not cover Agricultural workers.

Workers as defined in various labour laws in Bangladesh such as the Employment of Labour (Standing Orders) Act, 1965, the Industrial Relations Ordinance, 1969, the Factories Act, 1965, the Shops and Establishment Act, 1965, the Apprenticeship Ordinance, 1961 cover only workers in the organised sector. The agricultural workers or rural workers are not defined in these Acts.

Amongst the agricultural workers only the 'Tea Plantation' workers are treated as workers though the definition itself in the Tea Plantation Labour Ordinance, 1962 has become obsolete. The Tea Plantation Labour Ordinance, 1962 defines worker as follows :

'worker' means a person employed in a tea plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical but does not include:

- a medical officer at the tea plantation ;
- any person whose monthly wages exceed five hundred Taka ; or
- a person employed in a tea plantation primarily in a managerial capacity notwithstanding that his monthly wages do not exceed five hundred Taka ;

It is important to note that all workers earn more than five hundred Taka as wages per month and since the law has not yet been amended, there is no worker in the tea plantations as per the definition. Besides tea plantation workers other plantation workers such as workers employed in rubber plantations are also not covered by any labour laws.

#### **IV. RURAL AND AGRICULTURAL WORKERS OF BANGLADESH AND ILO CONVENTIONS**

The only ratified ILO convention on agricultural workers is Convention No. 11 (Convention concerning the Rights of Association and Combination of Agricultural Workers) . It was ratified by the then British-India Government. Thereafter no other ILO Convention on the subject has been ratified. After the adoption by the International Labour Conference in June 1975 of a Convention and a Recommendation concerning Organisations of Rural Workers and Their Role in Economic and Social Development viz. Convention No.111 some organisations asked the Government to ratify the same. The effort was limited in seminars and symposia in early 90s. This convention defined the term "rural workers", affirmed the rights of all (both employed and self-employed) to freedom of association, set out the conditions necessary for the development of their organisations and outlined the roles that they may undertake. Since it is not ratified and there is no hope for ratification in near future no law based on the same can be expected in the near future. The draft proposed labour law also does not contain any chapter on agricultural workers.

Although Convention No. 11 was ratified as early as in 1921 no provision regarding the same has been made in any labour legislation.

#### **V. OCCUPATIONAL SAFETY AND HEALTH**

Safety and Health are very important issues. There are no laws regarding occupational safety and health of agricultural workers including plantation workers although there are occupational hazards in this sector.

## **VI. WORKMEN'S COMPENSATION**

The law relating to Workmen's Compensation for accidents during or in the course of employment is the Workmen's Compensation Act, 1923. Workmen's Compensation Act is a social legislation, but it is not extended to the agricultural workers as their job is casual in nature. The agricultural workers do not come under the purview of the definition of worker as given in the Act and it does not apply to them.

## **VII. CHILD LABOUR**

Child labour is a common phenomenon in the agricultural sector. Like industrial workers no age limit is prescribed in this case. The legislation on 'pledging of labour' passed during the British regime is the Children (Pledging of Labour) Act, 1933. In the said Act 'child' has been defined as persons under the age of 15 years. This Act made provision for Penalty for parents or guardians making agreement to pledge the labour of a child. It is provided in the Act that whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with a fine, which may extend to 50 Taka. Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs, or permits such child to be employed in any premises or places under his control, shall be punished with a fine which may extend to two hundred Taka. This law is practically outdated and it has no application in the present day.

## **VIII. WAGES**

Most of the agricultural workers are casual workers. They are engaged on 'no work - no pay' basis. The pro-landlord agricultural policies has resulted in continuous rise of casualisation of labour in the rural sector. The only labour law in Bangladesh regarding agricultural worker is the Agricultural Labour (Minimum Wages) Ordinance, 1984. It defines 'agricultural labourer' as follows :

"agricultural labourer" means any person employed in agricultural crop production, but does not include:

- a person employed by the Government ;
- a person employed in a plantation as defined in clause (iii) of section 2 of the Payment of Wages Act, 1936 (IV of 1936) ;
- a person who works as a family labourer on monthly wages ;
- a person employed by a company registered under the Companies Act, 1913 (VII of 1913), engaged in production and sale of fish or livestock of any kind ;
- a bargadar as defined in the Land Reforms Ordinance, 1984 (X or 1984) ;

"wages" means all remuneration which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person in respect of his employment or work done in such

employment, but does not include any sum paid to such person to defray special expenses incurred by him in respect of his employment.

By section 3 of the said Ordinance, Minimum Wages for agricultural labour is fixed. According to the section:

- The minimum rate of wages for agricultural labour per day shall be 3.27 kilograms of rice or such amount of money as is equal to the price of this quantity of rice in the local market.
- The Government may, by notification in the official Gazette, review from time to time the minimum rate of wages fixed under sub-section (1), on the recommendation of the Council of Minimum Wages and Prices for Agricultural Labour constituted under section 4.
- The Government may, on review of the minimum rate of wages under sub-section (2), fix different rates of minimum wages for different areas, for different classes of agricultural labour or different kinds of agricultural labour.
- Notwithstanding anything contained in this section, no rate of minimum wages shall be reviewed earlier than three years from the date on which it was fixed, unless special circumstances so require”.

This law provides for constitution of a Council of Minimum Wages and Prices for Agricultural Labour, according to Section 4 of the Ordinance :

- The Government may, by notification in the official Gazette, constitute a Council to be called the Council of Minimum Wages and Prices for Agricultural Labour for the purposes of this Ordinance.
- The Council shall consist of a Chairman and such number of other members as the Government may deem fit to appoint.
- The Council shall, upon a reference made to it by the Government, recommend to the Government, after such enquiry as the Council thinks fit and after consideration of the economic conditions, cost of living and other relevant factors, the minimum rates of wages for agricultural labour.
- The Council may, if the circumstances so demand, recommend different rates of minimum wages for different areas, for different classes of agricultural labour or for different kinds of agricultural labour.
- In making its recommendations, the Council shall take into consideration the view of the Upazila Parishads, if any.

It is noted that although approximately 19 years has elapsed, no council has been formed and the rate of minimum wages has not yet been reviewed.

## **IX. FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING**

The rights of association of the Agricultural workers regarding formation of trade union, collective bargaining etc. are not covered or protected by the core labour laws such as Industrial Relations Ordinance, 1969.

The existing labour law relating to rights of association and formation of a trade union and settlement of industrial disputes is the Industrial Relations Ordinance, 1969. Since there is a barrier to the formation of trade unions i.e. the formation of a trade union requires 30% membership of the total workers of the same establishment, workers employed in different establishments cannot form any trade union. Even if agricultural workers are treated as workers they cannot form trade unions. Based on the decisions of the Supreme Court, High Court division, the trade unions functioning in the plantation sector are not legal.

## **X. CONCLUSION AND RECOMMENDATION**

Labour laws should be enacted to protect the agricultural and rural workers. The laws must govern especially the terms and conditions of employment, freedom of association, minimum wage, occupational safety and health, and social security.

## **REFERENCES**

1. Statistical Year Book 2000 Bangladesh Bureau of Statistics
2. Labour and Industrial Laws of Bangladesh
3. International Labour Conventions and Recommendations 1919-1991 published by ILO