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How Far Labour Act, 2006 Reflects the ILO Obligations

Khalid Mahmud Bappy¹²

Abstract

Bangladesh Labour Code 2006 has got its existence after many years of consolidation. Various scattered law existed that regulated the labour regulations but for making the process easy, and transparent. In making this Act world-recognized, Bangladesh stepped up and included various acts aligned with the ratified conventions of the International Labour Organization (ILO). People of Bangladesh started enjoying the benefits of this alignment but many associations and organizations arise a question- is Bangladesh Labour Code reflecting all the obligations as they should? After going through 33 ratified ILO conventions, this paper has identified the major alignments and what kind of changes it had to go through whenever it appeared as the municipal law.

Keywords: Bangladesh Labour Act, International Labour Organization, Convention, Observations, Municipal Law.

Note:

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Introduction

International Labour Organization was established in 1919 and from then on it has established the most prominent effect in saving the rights of labor. The main aims of the ILO are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.¹ That led to the various convention (see table 1) development and that convention gave rise to the International Labour Organization (ILO) obligations.

Type of Convention	Convention	Established Year
Fundamental Conventions	Freedom of Association and Protection of Right to Organize Convention	1948
	Right to Organize Collective Bargaining Convention	1949
	Forced Labour Convention	1930
	Abolition of Forced Labour Convention	1957
	Worst Forms of Child Labour Convention	1999
	Equal Remuneration Convention	1951
	Discrimination (Employment and Occupation) Convention	1958
Governance Convention	Labour Inspection Convention	1947
	Employment Policy Convention	1964

¹ Paul Kreijger, 'Brulotte In Europa? Opmerkingen Bij Genentech/Hoechst' (2016) 19 Markt en Mededinging.

	Labour Inspection (Agriculture) Convention	1969
	Tripartite Consultation (International Labour Standards) Convention	1976

Table 1: International Labour Organization (ILO) Conventions²

Table 1 already showed us the conventions, and we got a general perspective of how this has shaped the future of every country's labor codes. As our concern is all about the compliance of the obligations of ILO with Labour Code 2006, we will go over all the chapters (See Table 2), and sections of the Labour Code 2006 and will see to which extent the compliance has been achieved. Also, this will be presented in segmented parts for better understanding wherein Part I, we will discuss what the aligned laws present in the Bangladesh Labour Code (BLC) are, and in Part two, we will see what the unique features of BLC from where ILO can get inspirations are as the observation.

Chapter/ Index	Chapter Name/ Concerned Topic	Sections
Preamble	Defines the jurisdiction of BLC, 2006	-
Chapter I	Definitions	1-2
Chapter II	Conditions of Service and Employment	3-33
Chapter III	Employment of Adolescent	34-44
Chapter IV	Maternity Benefit	45-50
Chapter V	Health and Hygiene	51-60
Chapter VI	Safety	61-78
Chapter VII	Special Provisions Relating to Health, Hygiene and Safety	79-88
Chapter VIII	Welfare	89-99
Chapter IX	Working Hours and Leave	100-119
Chapter X	Wages and Payment	120-137

² 'Conventions And Recommendations' (Ilo.org, 2022)

<<https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>> accessed 14 April 2022.

Chapter XI	Wages Board	138-149
Chapter XII	Workers' Compensation For Injury by Accident	150-174
Chapter XIII	Trade Unions and Industrial Relations	175-208
Chapter XIV	Disputes, Labour Court, Labour Appellate Tribunal, Legal Proceedings, etc.	209-231
Chapter XV	Workers' Participation in Companies Profits	232- 252
Chapter XVI	Regulation of Employment and Safety of Dock Workers	253-263
Chapter XVII	Provident Funds	264-273
Chapter XVIII	Apprenticeship	274-282
Chapter XIX	Penalty and Procedure	283-316
Chapter XX	Administration, Inspection, etc.	317-323
Chapter XXI	Miscellaneous	324-354
Schedule I	List of Injuries Deemed to Result in Permanent Partial Disablement	-
Schedule II	List of Notifiable Diseases	-
Schedule III	List of Occupational Diseases	-
Schedule IV	Definition of Worker (Extended)	-

Table 2: Chapter Overview of Labour Code 2006

Relevant, and Irrelevant Section, Parts and Obligation with ILO

As the obligation arising from the Convention ratified by a member state of the International Labour Organization (ILO). According to ILO, “As of 1st January 2019, there were 1,376 ratifications of these Conventions, representing 92 percent of the possible number of ratifications.”³ Among those Bangladesh has

³ 'Conventions And Recommendations' (*Ilo.org*, 2022)
<https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang-->

ratified 33 ILO conventions only including seven fundamental conventions mentioned in Table 1.⁴ As Bangladesh is a Monist country in terms of International Public Law therefore it has to enact its own municipal law based on the constitutional restrictions. As Table 4 says, Bangladesh Labour Act's every chapter has somewhat relevance to the International Labour Organization's provisions but the question arises are they totally adapted or not?

In the following subsection, discussion on the relevance will be discussed in a brief manner, also will see various sections and article relevance which are placed briefly by the respected authority of the International Labour Organization and Bangladesh Government.

Chapter/ Index	Chapter Name/ Concerned Topic	Aligned With ILO Conventions
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Preamble	Defines the jurisdiction of BLC, 2006	-
Chapter I	Definitions	-

Chapter II	Conditions of Service and Employment	Forced Labour Convention, 1930 Abolition of Forced Labour Convention, 1957
Chapter III	Employment of Adolescent	Worst Forms of Child Labour Convention, 1999
Chapter IX	Working Hours and Leave	Discrimination (Employment and Occupation) Convention, 1958 Employment Policy Convention, 1964

en/index.htm#:~:text=Fundamental%20Conventions&text=As%20of%201st%20January%202019,the%20possible%20number%20of%20ratifications.> accessed 14 April 2022.

⁴ 'International Labour Standards In Bangladesh (ILO In Bangladesh)' (Ilo.org, 2022)

<<https://www.ilo.org/dhaka/Areasofwork/international-labour-standards/lang--en/index.htm#:~:text=Bangladesh%20has%20been%20an%20important,enshrined%20in%20the%20ILO%20Declaration.>> accessed 14 April 2022.

Chapter IV	Maternity Benefit	Maternity Protection Convention, 2000
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Chapter V	Health and Hygiene	Labour Inspection Convention, 1947 Tripartite Consultation (International Labour Standards) Convention, 1976
Chapter VI	Safety	
Chapter VII	Special Provisions Relating to Health, Hygiene and Safety	
Chapter XVI	Regulation of Employment and Safety of Dock Workers	
Chapter XX	Administration, Inspection, etc.	
Chapter XVIII	Apprenticeship	
Chapter VIII	Welfare	

Chapter X	Wages and Payment	Equal Remuneration Convention, 1951 Employee's Provident Fund, 1958
Chapter XI	Wages Board	
Chapter XII	Workers' Compensation For Injury by Accident	
Chapter XV	Workers' Participation in Companies Profits	
Chapter XVII	Provident Funds	

Chapter XIII	Trade Unions and Industrial Relations	Freedom of Association and Protection of Right to Organize Convention, 1948 Right to Organize Collective Bargaining Convention, 1949
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Chapter XIV	Disputes, Labour Court, Labour Appellate Tribunal, Legal Proceedings, etc.	Voluntary Conciliation and Arbitration Recommendation, 1951
Chapter XIX	Penalty and Procedure	Examination of Grievances Recommendation, 1967 Labour dispute prevention and resolution
Chapter XXI	Miscellaneous	-

Table 3: Relevant Conventions with Bangladesh Labor Code as Source

Labour Condition and Employment

Chapter II, III, IX is related to the Labour Employment and conditions. Wherefrom sections 3-44, and 100-119 there is mentioned the condition of Adolescent employment and how much rest a person should get for their work done during office hours.

As an example, Article 7 (2) (d) of Worst Forms of Child Labour Convention, 1999 says to “identify and reach out to children at special risk” itself directly related to the section 42 of the Bangladesh Labour Code, 2006 where it’s mentioned that “No adolescent shall be employed in any work in the underground or underwater”

This shows how Bangladesh Labour Code, 2006 has tried to comply with the provision and keep it as relevant as possible to justify the ratification.

Chapter	Bangladesh Labour Act	International Labour Organization
Chapter II	Conditions of Service and Employment	Forced Labour Convention, 1930

Chapter III	Employment of Adolescent	Abolition of Forced Labour Convention, 1957
Chapter IX	Working Hours and Leave	Worst Forms of Child Labour Convention, 1999 Discrimination (Employment and Occupation) Convention, 1958 Employment Policy Convention, 1964

Table 4: Labour Employment Related Conventions in BLC

Maternity Benefits

Maternity Benefits can be found in section 44-50 of the Bangladesh Labour Act, 2006 and the provision related to the same section can be found in the Maternity Protection Convention, 2000. It has very vast compliance compared to other sections.

Article 4(1) of the Maternity Protection Convention says- “On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks”

Following the article, our Labor Act’s relevant section 46 says that a woman who will produce a baby is entitled to paid leave of 8 weeks before and 8 weeks after the production. It shows that, where the convention fixed 14 weeks, the Bangladeshi government allowed the leave and increased it for the country’s women’s welfare.

Chapter	Bangladesh Labour Act	International Labour Organization
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Chapter IV	Maternity Benefit	Maternity Protection Convention, 2000
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Table 5: Maternity Benefit Related Conventions in BLC

Safety and Inspection

Safety and Inspection cover many sections as every life is important and the value of life is irreplaceable. Section 51-99, 253-263, 274-282, 217-233 fairly sets a standard for worker's safety maintenance and also, is the regulations got maintained regularly or not that's why it needs the regular inspections- and these vast chapters also cover that.

When it comes to the alignment with the ILO conventions, Article 6 of the Labour Inspection Convention, 1947 says- "The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of the stability of employment and are independent of changes of government and improper external influences." There Bangladesh Labour Code's section 318 is empowered with recruiting chief inspectors and deputies who will be public officials. Here is also showing stability in fulfilling ILO obligations.

Chapter	Bangladesh Labour Act	International Labour Organization
Chapter V	Health and Hygiene	Labour Inspection Convention, 1947 Tripartite Consultation (International Labour Standards) Convention, 1976
Chapter VI	Safety	
Chapter VII	Special Provisions Relating to Health, Hygiene and Safety	
Chapter XVI	Regulation of Employment and Safety of Dock Workers	
Chapter XX	Administration, Inspection, etc.	
Chapter XVIII	Apprenticeship	
Chapter VIII	Welfare	

Table 6: Safety and Inspection Related Conventions in BLC

Remuneration and Funds

Remunerations are the most aligned subject matter for any work or commercial-related Acts and Bangladesh Labour Act is no different than that as well. Section 120-174 and 232-263 deal with that Remuneration and funds.

Article 2 of the Equal Remuneration Convention, 1951 says, “Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.”

Based on this principle, in Chapter XI’s wage board was created including respective sector’s representatives along with government officials and equal pay for every worker “Government has raised the minimum monthly wage for 4.4 million garment workers by around 51 percent to Tk 8,000 from the existing Tk 5,300”⁵ evaluating article 2(2)’s socio-economic structure provision of Equal Remuneration Convention, 1951.

Chapter	Bangladesh Labour Act	International Labour Organization
Chapter X	Wages and Payment	Equal Remuneration Convention, 1951 Employee’s Provident Fund, 1958
Chapter XI	Wages Board	
Chapter XII	Workers' Compensation For Injury by Accident	
Chapter XV	Workers' Participation in Companies Profits	
Chapter XVII	Provident Funds	

Table 7: Remuneration and Funds Related Conventions in BLC

Trade Union and Collective Bargaining

Freedom of Association is a fundamental convention of ILO. (See table 1) and Bangladesh Labour Code along with Bangladesh Constitution provides the

⁵ 'Tk 8,000 A Month' (*The Daily Star*, 2022)

<<https://www.thedailystar.net/business/news/bangladesh-rmg-garment-workers-minimum-salary-8000-taka-announced-1633342>> accessed 15 April 2022.

opportunity to form the association and enjoy the freedom as a fundamental right in 36-37 of the Constitution of Bangladesh and Section 175-208.

For ensuring the right of Trade unions and CBA, Article 6 of the Right to organize collective bargaining says- “This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.”

Therefore, CBA is taken from the trade unions which is not a government body and also, it’s mentionable it should have at least 30% support of total workers- it’s also upholding the right of the common worker as a whole.

Chapter	Bangladesh Labour Act	International Labour Organization
Chapter XIII	Trade Unions and Industrial Relations	Freedom of Association and Protection of Right to Organize Convention, 1948 Right to Organize Collective Bargaining Convention, 1949

Table 8: Trade Union and CBA Related Conventions in BLC

Dispute Resolution and Legal Proceedings

Dispute resolution and legal proceedings are the subjects of municipal law and also the local government has the total authority over it. But in terms of forming a conciliation process, any type of arbitration can be a frame following the International Labour Organization’s Convention. Section 209-231 says about all the legal proceedings and section 283-316 deals with all the penalties for the relevant breach of law.

Chapter	Bangladesh Labour Act	International Labour Organization
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Chapter XIV	Disputes, Labour Court, Labour Appellate Tribunal, Legal Proceedings, etc.	Voluntary Conciliation and Arbitration Recommendation, 1951
Chapter XIX	Penalty and Procedure	Examination of Grievances Recommendation, 1967 Labour dispute prevention and resolution

Table 9: Dispute and Legal Related Conventions in BLC

Observations

Our concern was that is Bangladesh Labour Code meeting all the obligations that arose from the conventions of the International Labour Organization.

Viewing all the sections and articles and evaluating them based on the compliance I have come to the conclusion that-

1. All the ratified convention has been implemented in the Bangladesh Labour Code theoretically
2. In few sections, Bangladeshi government has increased the amount of opportunity that ILO's conventions had offered
3. Penalty and Legal proceedings are beyond the power of ILO's convention but formation of Labour Court and Arbitration has a great touch from ILO conventions

Bangladesh Labour code has more potential for getting enriched and our constitution has the scalability of making the Labour code larger, we just need to ratify a few more conventions. But more than that, we need to properly implement all provisions of these Laws and avoid exploitation. As Gandhi mentioned-

Obedience to the law of bread labour will bring about a silent revolution in the structure of society⁶

⁶ 'Mahatma Gandhi Quote' (A-Z Quotes, 2022)

<<https://www.azquotes.com/quote/1289280>> accessed 15 April 2022.

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Worst Forms of Child Labour Convention, 1999

Equal Remuneration Convention, 1951

Discrimination (Employment and Occupation) Convention, 1958

Labour Inspection Convention, 1947

Employment Policy Convention, 1964

Tripartite Consultation (International Labour Standards) Convention, 1976

Article

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