

Policy Brief

WORKERS RIGHTS IN THE CONSTRUCTION SECTOR OF BANGLADESH

Edited and published by
Safety and Rights Society (SRS)
6/5A Sir Syed Road, Mohammadpur
Dhaka 1207, Bangladesh
Cell Phone: +8801974666890
Email: info@safetyandrights.org
Web: www.safetyandrights.org

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WORKERS RIGHTS IN THE CONSTRUCTION SECTOR OF BANGLADESH

1. Introduction

As a source of employment, the construction sector in Bangladesh provides much-needed work opportunities for the country's poorest and most vulnerable people, hiring more than 3.4 million people and generating eight per cent of the national GDP annually.

Although the construction sector in Bangladesh is a formal organized, legally-speaking, labour relations and practices remain mostly informal. In other words, while many aspects of worker rights and protections have been codified in law (the Bangladesh Labour Act 2006), construction companies tend to work outside of, or without regard for, these regulations. Some of these protections include minimum wage, insurance for workers, and the right to organize unions, among others.

Unsurprisingly, reported cases of labour and human rights violations in the construction sector are common. However, a comprehensive study to examine workplace conditions for purposes of implementing workplace rights and protections does not exist.

This brief summarizes a larger report about work conditions in the Bangladesh construction sector and reviews Bangladesh's regulatory instruments in line with the United Nations Guiding Principles (UNGPs) and other international human rights standards and norms with particular focus on ILO conventions. Following this assessment, the brief offers a set of recommendation to secure safe and effective implementation of construction workers' rights.

Business and human rights

While the United Nations initial responsibility for protecting human rights was shared between individuals and the state, that frame grew over time to include the obligations of companies and other private sector entities. As such, companies were envisaged also to have human rights duties for the following:

- Employees in that company and any entity along the company's supply chain
- Consumers who buy goods and services the company provides
- Communities near facilities where the company operates, and whose lives are affected by the company's actions, and
- People at large in society, whose rights are impacted by the actions or inactions of a company.

As some victims of corporate human rights abuses are trapped between two actors (the state and business), the lack of an effective regulatory framework means that the victims often do not get redress when their rights are violated.

Recognizing the increasing role and influence of business on human rights, UN

Secretary General, Kofi Annan, unveiled the Global Compact in 2000, which called upon companies to adhere to nine principles (later one more principle was added) to ensure that companies act responsibly. The first principle stated that companies must respect human rights.

After this initial step, the UN developed the Guiding Principles for Business and Human Rights (UNGPs) – a three-pillar approach:

1. the state has the responsibility to **protect** human rights.
2. businesses have the responsibility to **respect** human rights; and
3. there is responsibility for **remedy** to address gaps when rights are not respected or protected that bears upon both States and businesses.

With these three pillars, the UNGPs provide a foundation for a common international framework within which to adapt human rights to business.

Corporate responsibility to individuals and communities not only means “doing no harm,” but also includes an expectation that a company will assess the impacts of its activities on rights holders and take steps to mitigate and eliminate harm where impacts are relevant and where it has caused, contributed to, or is linked with the harm.

The UNGPs offer value by providing guidelines to bridge the accountability gaps where laws do not cover and/or duty-bearers (e.g., the state or a company) do not play their part. For this reason, the Principles were unanimously endorsed by the Human Rights Council in 2011 and today are supported by many businesses all over the world.

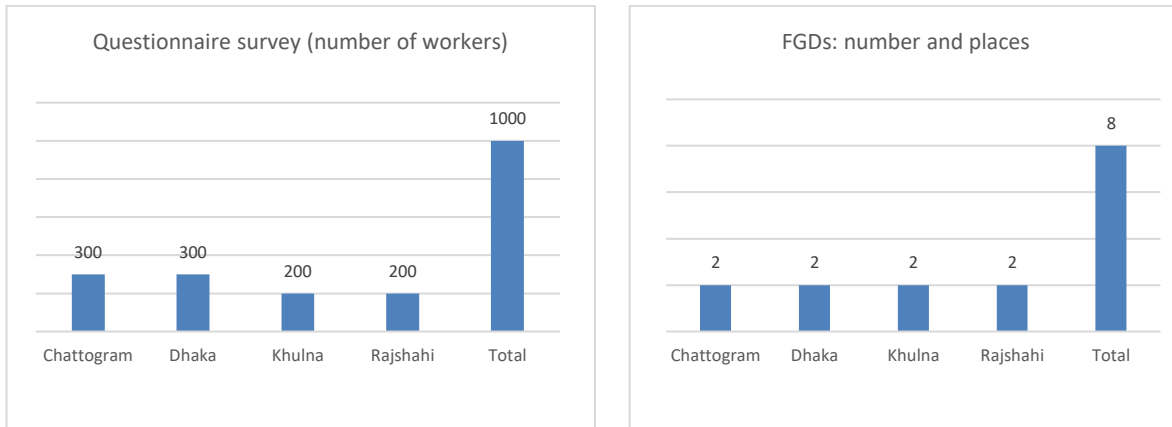
Having the UNGPs is more necessary than ever as the world has come to understand and accept that companies have an undeniable impact on human rights. For example, the 10 most profitable companies in the world have a combined capital value that exceeds Japan’s. Numbers like these demonstrate that the power of businesses to influence people’s lives has grown beyond expectations, and companies are now essential partners in the global quest to achieve the Sustainable Development Goals.

Study process and methodology

This study employs a mixed-method approach—both quantitative and qualitative aspects inform the analysis of the construction work and rights situations of the workers.

The analysis of the construction work and rights situations of the workers identifies the risk factors for workers at the construction sites and the required regulatory instruments and practical supports for addressing those risks. This review of the provisions under the existing national regulations, and as such the framework of assessment draws on the decent work agenda and includes issues of human and labour rights indicators.

The study draws on a questionnaire survey of construction workers across the country along with four focus group discussions (FGDs) with construction workers and their representatives and nine key-informant interviews with construction companies, association, and government representatives were conducted.



Study Outline

The study is presented in three core sections. First, the legal and policy environment: with a focus on coverage, deficits, and implementation status, the existing laws and policies that address the rights of construction workers are presented. Second, decent work condition and deficits: focusing on the condition of construction workers in terms of human and labour rights indicators. Third, strategic directions: exploring what steps and strategies the construction sector employers adopt and what initiatives diverse stakeholders may provide to deal with the decent work deficits.

2. Legal and Policy Framework for Construction Workers

Bangladesh is obliged to uphold workers' rights through numerous international workers' rights and human rights instruments. The country has ratified all eight fundamental ILO conventions on core labour rights, including the Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social and Cultural Rights (ICESR) and International Covenant on Civil and Political Rights. The Convention on the Rights of the Child (CRC), and Convention on Elimination of All Forms of Discrimination against Women (CEDAW) also provide the basis for worker rights protection in Bangladesh.

At the country level, the constitution is the highest legislation of Bangladesh, and provides its citizens the right to freedom of association, reasonable wages, equal opportunity in employment, and social security. The constitutions also prohibits forced labour and indicates work as a right and duty of the citizen.

The most important labour legislation is the **Bangladesh Labour Act 2006** (BLA 2006), which regulates trade unions, working hours, minimum wages employment and industrial relations. The laws setting out the obligations relating to workplace safety on construction sites are principally contained in the Bangladesh National Building Code (BNBC) 2020.

Employment Contract

The BLA 2006 provides numerous provisions on contractual arrangements (e.g., appointment letter and identity card, service book, employee register, and detailed guidelines on job termination both by workers and employers) and details worker rights with regard to resignation with sufficient notice and compensation after job termination.

Working Hours

BLA 2006 allows every adult worker to work without overtime, maximum eight hours a day and forty-eight hours a week. For night duties, the BLA 2006 stipulates that no woman can work between 20:00 and 6:00 without her consent and young workers (14-18 YOA) are forbidden to work between 19:00 and 7:00.

Elimination of Child Labour

For child labour, the BLA 2006 employs the exemption provision of the ILO convention applicable to developing countries, setting the minimum age of employable children at 14 years in cases where the work is not harmful to the child's health and education. However, the law does not define what constitutes such work (except the worst forms of child labour). This situation is further complicated by the fact that non-availability of national identity documents for persons below eighteen years of age makes it difficult to discern appropriate ages for certain jobs.

Protection against Forced and Compulsory Labour

The Bangladesh constitution prohibits all forms of forced labour with threat of punishment for violations; however, this prohibition is not provided in the BLA 2006.

Protection against Discrimination at Workplace

Employers are obliged to ensure equal wages for male and female workers for work of equal nature or value, which aligns with the ILO provision on the same subject. However, the BLA 2006 does not address broad areas of discrimination (e.g., race, religion, and ethnicity) that also occur in workplaces.

Wage and Work-related Benefits

According to the BLA 2006, the government is required to establish a Minimum Wage Board to determine and declare rates of wages. But the Act fails to address how the government balances efficiency (profit) and equity (workers' protection) into the wage structure.

The law obligates employers to provide all remuneration in a regular and timely manner and stipulates the few permissible cases when wages can be deducted from an employee.

BLA does not address how minimum wage is fixed for piece rate workers and lacks provisions about laws related to festival bonuses (which are common on Asia) and other allowances (e.g., healthcare, transportation, recreation). These decisions are left to the employers' discretion.

Social Security

Bangladesh's labour law has provisions for insurance, compensation, and maternity benefits, but does lack specificity on social security benefits, including gratuity and provident funds. Under law, gratuities are optional while provident funds are subject to a critical mass of work demand: 3/4th of the total workers of any establishment must request their employer to form provident fund. Similarly, group insurance is not required for an employer if they employ fewer than 100 persons, which leads many companies to manipulate the number of contracts they formalize with workers.

Occupational Safety and Health

The duties relevant to worker health, safety and welfare are contained in the Bangladesh National Building Code (BNBC). Unlike the BLA 2006, the BNBC imposes a general duty to worker safety, but does not set out how the responsibilities of the owner, the developer, the contractor and the engineer may differ. They all simply have to comply with the requirements of the BNBC.

The BNBC does not impose duties on any party to provide safety-related training, information, instruction, or supervision. Instead, the Code lays out detailed obligations set out about what the duty holders should do in relation to different kinds of work activities on a construction site and makes clear that any legal contract between the owner and a contractor and the owner and consultant cannot "absolve the owner from any of his responsibilities under the various provision of this Code."

Freedom of Association and Collective Bargaining

BLA 2006 provides workers with the right to form and join trade unions and stipulates the following: a) workers are protected during trade union formation in or out of the workplace; and b) trade union officials cannot be transferred from one place to another without their consent.

Trade union formation requires support from a minimum 20 per cent of workers employed in any establishment or group of establishments. This numerical binding excludes large majority of construction workers since it causes obstacles to their freedom to form and join unions. This also does not correspond to standards on all workers' rights to form and join trade union, especially with the ILO convention 87 to which Bangladesh is a signatory.

For collective bargaining, BLA 2006 includes several provisions on rights to bargaining, scope and procedures of bargaining, procedures of settling industrial disputes, right to strike, workers' protection during lay-off, and tripartite consultation. A trade union is allowed to work as a collective bargaining agent (CBA) in any establishment. Calling a strike is also dependent on the support of pre-requisite number of members (75 per cent) for the CBA. These pre-requisites often deter and/or inhibit workers from forming unions and taking stronger action to secure their safety and equitable treatment in the workplace.

3. The State of Rights of Construction Workers

Employment Opportunities

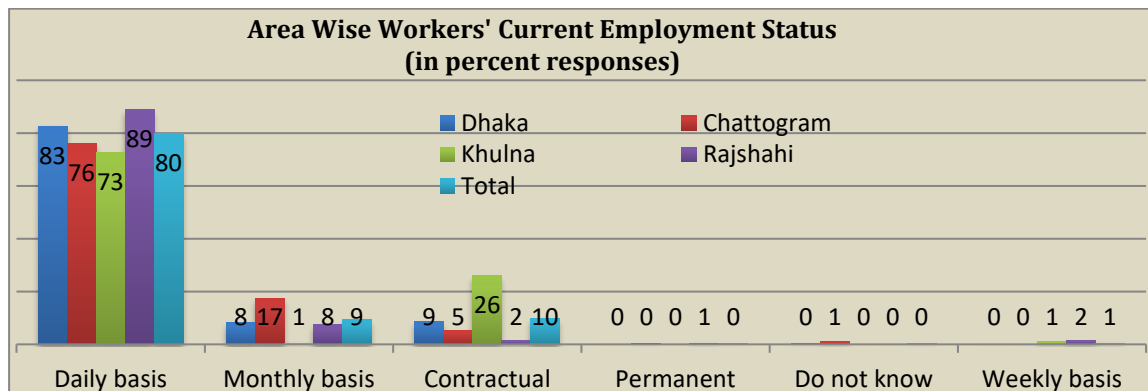
The construction sector in Bangladesh includes: masonry, electric work, painting, plumbing, piling, iron work/rod binding, welding, carpentry, roof-casting, glass/aluminum setting, tiles/mosaic, and rod casting.

Most construction workplaces employ fewer than 30 workers and the smaller the work site, the more women tend to be employed. In this study, 93 per cent of female respondents were employed at construction sites with five people and fewer. The converse is true also for male employment: the larger the work site, the more men tend to be employed. For example, 53 per cent of men interviewed were employed at worksites with 11 to 30 people.

Perceptions on the availability work opportunities in the construction sector differ across gender, as women tend to believe that opportunities for them are far fewer than those of their male counterparts. Some of this difference can be explained by women lacking interest in a particular form of construction work, or thinking they lack adequate skills for some types of construction such as plumbing or electrical work. The remainder of the difference is owed to female feelings of safety in construction work environments.

Much construction work is seasonal and weather-dependent, leading to significant variance throughout the course of year. Workers average 15-25 days per month in this study (except for the rainy season) and women tend to be massed toward the lower end of that range compared to their male counterparts.

In terms of formal v. informal employment, the study finds that over 90% of women are hired on a daily basis (compared to 80% of all workers) and lag far behind men who are more likely to be recruited for month-long contracts or piece-rate work.



Stability and Security of Work

“There is no job security for construction workers in Bangladesh as almost all of them are day-labourers. ... Anytime, they are forced to leave the job, or the companies sack them, as 95 per cent of them have no formal appointment letters.” – a key informant states.

As informal work is the norm in Bangladeshi construction sector, workers find employment through a variety of channels, including sub-contractors and labour *sardars*.

In the study, 40 per cent of workers had five or fewer years in construction, slightly more than 20 per cent had worked 6-8 years, and remainder had worked nine years and more. Only 6 per cent of respondents had more than 20 years' experience in construction, a small number attributable to the demanding physical toll of this work.

Generally, workers have short terms in construction due either to leaving the job prior to its completion or the termination of the work. Seventy-one per cent of workers reported having been on their current job for three months or fewer.

Although appointment letters, identity cards, and service books are important tools for ensuring employment security, only three per cent of respondents in the study had employer ID cards and only 10 per cent had been given service books. Regarding attendance, only 48 per cent of respondents said their employers kept daily records.

Expulsion of workers without written notice is frequent in this sector and violates stipulations in the BLA 2006. But as most construction work is informal, workers have no access to redress against unlawful termination. Sixty-nine per cent of respondents said termination without notice was the norm at their workplaces and only 34 per cent said terminated employees “always” received their due compensation in the case of termination.

Decent Working Time

With regard to working time, eight hours is the standards for the majority of construction workers with no significant variation across genders. Among workers reporting more than eight hours of work per day, men more commonly worked in excess.

“If at the end of the day it is seen that a small portion of the work has remained incomplete, individual owner requests the contractor to finish it to save his time and money. Then the contractor asks us to work for some additional minutes/hours, but we are not paid for those additional minutes/hours.” (FGD, Dhaka)

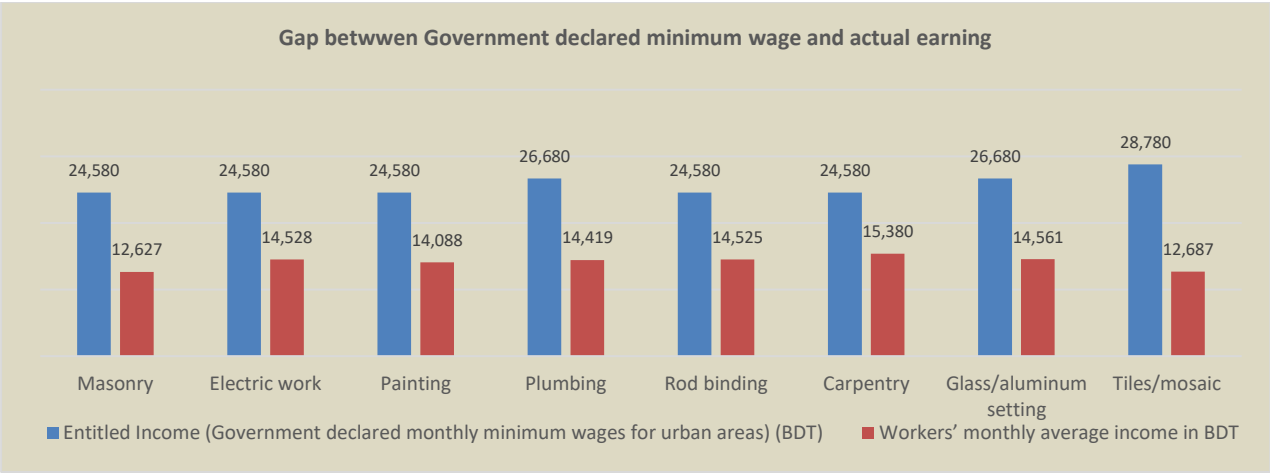
In Bangladesh, two hours is the legally permitted limit of overtime per day, which is frequently violated as 78 per cent of workers reported having more than two hours of daily overtime in the past year (80 per cent for men and 65 per cent for women). The severity of this situation is compounded by the fact that approximately 80 per cent of all workers said they were not properly compensated for overtime hours (double the hourly rate).

Wages

The Government of Bangladesh set minimum wage for construction sector workers in August 2021, but few workers (five per cent) in the study were aware of this minimum standard.

In general, workers in the construction sector are paid very poorly, ranging between 10,000-20,000 BDT (USD 90-180) in monthly salary with an average monthly salary of 14,000 BDT for person hired by formal construction companies and ~13,000 BDT for those persons hired for construction work by individuals.

The lack of an enforced minimum wage is evidence when comparing a mason’s average salary in the construction sector (12,627 BDT) compared to the government declared monthly minimum wages for masonry of 24,580 BDT. Across all sectors of construction, workers earn only 44-63 per cent of the government declared minimum wages.



Most wages in the construction sector are paid daily. Only nine per cent reported having a fixed date for payment (usually 7-10 days into the next month). Of those who do not have a fixed payment date (16 per cent), most said they would not receive payment until after the 10th day of the subsequent month, which violates BLA 2006.

Looking at gender, women reported being paid 20-200 BDT less than men for doing the same work, depending on the type of work (e.g., masonry v. painting). Interestingly, many women offered the same opinion as men when explaining the reason for the difference: *“It is natural that male workers will pay more than the female workers as a female worker could not do as much work as the male workers can.”*²⁶ Not all workers

(62 per cent women; 35 per cent men) were aware of the differences in wages paid to men and women for the same kind of work.

Perhaps not surprisingly, a majority of workers (63 per cent) said their salaries from construction were not enough to cover monthly family expenditures, a gap that ranged from 900-3,000 BDT (8-27 USD) in this study.

“The adequate earning is impossible for a construction worker as they are day labourers and sometimes, they are deprived of daily fair wages.” – informed a key informant.

Discrimination, Harassment and Equal Opportunity

Experiences of discrimination in construction work were common, with 30 per cent claiming they had experienced and/or witnessed discrimination at work on the grounds of wage, overtime, retrenchment and/or assigned tasks. The most common form of discrimination was along gender lines as workers and contractors alike justified work assignments and pay differentials between men and women due to patriarchal beliefs about ability and responsibility to family.

“Separate toilet facilities aren’t available for women construction workers at the workplace.”

In general, workers seem oblivious to these forms of discrimination. In the case of gender discrimination, 45 per cent said they were unaware that women did not receive the same work opportunities as men.

Harassment also appears to be a pervasive issue in many construction sites. Thirty percent of workers claim to have faced different types of harassment at work with verbal abuse being the most common (92 per cent). In cases of harassment, avenues for redress are few: 68 per cent of workers surveyed said there was no mechanism for levying complaints about workplace harassment. Worth mentioning, 18 per cent of workers described “other” means for complaints, largely of an informal nature where contractor, sub-contractors, head *mistri*, labour *sardar*, or foreman plays an influential role.

Child Labour and Forced/Bonded Labour

On the issue of child labour, 22 per cent of respondents said their employers did recruit underage workers (< 18) and nearly all respondents claimed that employers did not exercise due diligence to verify ages while hiring.¹

While the BLA 2006 does stipulate that adolescents can be employed in constructions, they must be provided with “light work” (though the Code is not specific about what constitutions such labour). Forty-three per cent of respondents said that underage workers were treated differently at the construction site, provided with

¹ In fact, five per cent of respondents in this study (n = 42) were under the legal employment age.

simpler tasks and less dangerous work, meaning that 57 per cent witness adolescents engaged in inappropriate work.

Work, Family and Personal Life

Holidays and weekends are generally not provided in the construction sector, due largely to its reliance in daily hiring practices: 93 per cent of all surveyed workers said they did not receive weekend or holiday leave. Similarly, no workers reported having received other types of leave, such as annual and causal leave.

While workers are entitled to weekend days off (at their own cost) many (27 per cent) say the process for obtaining that leave is “not easy,” and many fear future repercussions for taking these days off.

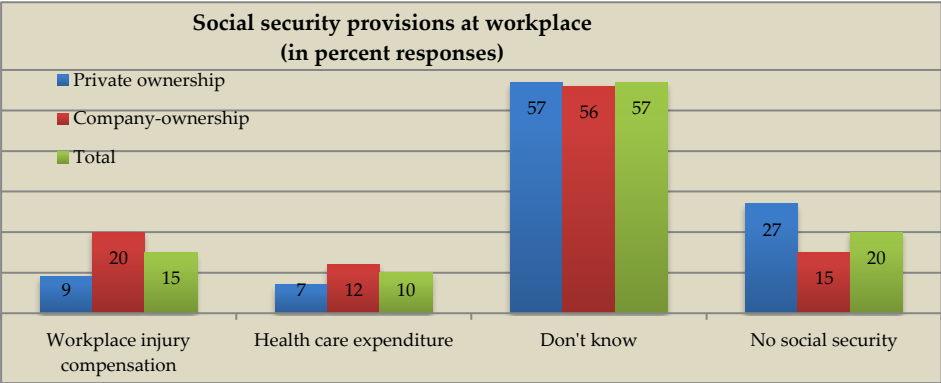
"It is very difficult to maintain family to do this work. I have been working outside of the home for four years. I have a baby girl at home. I cannot pass enough time with her; sometimes it feels too painful to me." — expressed a construction worker.

Likewise, maternity leave is also not provided to women workers except for a few exceptions and level of unawareness is also remarkable. Survey data show that 56 per cent of workers do not know whether such practice is available in the construction sector.

Given these limitations and options, 55 per cent of respondents say they cannot find a work-life balance while doing construction work.

Social Security

The BLA 2006 stipulates many provisions concerning employers’ liability for social security (e.g., provident fund, gratuity, death and injury compensation, and group insurance). The study confirms that construction workers mostly are deprived of social security rights, primarily due to the fact that they are 1) unaware what social security provisions they are entitled to through employment, and 2) because employers do not fulfill their obligation to inform workers about these entitlements. Survey data found that nearly 60 per cent of all workers were not aware of what forms of social security their employers were obligated to provide.



Workplace Safety

Construction work features risks and hazards that are unique to this sector, owing to the nature of the work and the heavy materials frequently used. Regarding worker perceptions of these risks, 24 per cent were concerned about cutting their hands or legs (most common), followed by falling from heights, electrocution, and straining muscles/ligaments in the act of work. While employers are obligated to provide personal protective equipment (PPE), nearly 68 per cent of respondents said they did not receive PPEs for their work.

Regarding workplace safety trainings, 91 per cent reported having no training about risk prevention and reduction. While government inspection could help motivate employers to provide such trainings and PPEs, the presence of these entities – such as the Department of Inspection for Factories and Establishments – was rare in the study. Only three per cent of respondents said they had witnessed government agencies making a visit to their construction site.

“International level companies assign safety officers at the construction sites. The numbers of such projects in Dhaka are not more than five or six. As per the work order and contracts, they provide safety equipment but some middlemen hide those safety gears without providing them. The International work order follows all safety and service benefit issues. But, local companies and individual ownership construction works do not follow any safety rules or service rules. However, only a few large Bangladeshi companies follow these rules.” – states an owner of a small construction company.

Trade Unions and Resolving Disputes

Only 4.5 per cent of respondents said membership in trade unions was available at their construction site. Among those sites where unions are present, 40 per cent are not members. Initiative and activities to form union is also low. Among sites where no union is present, 89 per cent of respondents say they have been witnessed nor heard any discussions about union formation.

The reasons given for low membership include lack of interest, lack of knowledge of how unions can help workers, and lack of time workers can devote to union activities.

Because of the lack of unions, dispute resolution tends to be informal, relying on discussions and negotiations between workers and their employers (i.e., foremen, contractors, and labour *sardars*). When raising issues with management, workers tend to do so individually (50 per cent) or with other workers (43 per cent).

4. Recommendations and Strategic Directions

While construction work in Bangladesh offers wage-earning opportunities to many people, the sector is characterized by a general precarity by virtue of low company compliance with existing laws; low enforcement of existing laws; low knowledge of worker rights; and low awareness of human rights.

To address these gaps, we have derived the following list of recommendations and strategic directions based on the data presented above:

Employment Relations

- Construction employers should be required to furnish appointment letters, identity card, and compensation to all workers in compliance with BLA 2006. Without these official documents, workers are vulnerable to abuse and exploitation by employers. With these documents, workers will have improved access to existing protections and remediation processes.
- Working hours fixed by (and enforced by) law should be required at all construction sites. Compulsory labour should be prohibited, and overtime paid double the hourly wage, as stipulated in BLA 2006.
- Legal minimum wages (and other wage related benefits) should be provided to construction workers, backed by regular monitoring from DIFE to ensure compliance.
- Employers need to form functional anti-harassment committees to monitor and enforce appropriate workplace behavior.

Occupational Safety and Health

- Company and individual employment policies must comply with OSH and BLA 2006, articulating specific guidelines for PPE distribution and use; safety trainings; and minimum standards for providing information on occupational risks and hazards.

Welfare and Social Protection

- Employers should be required to offer pension schemes and a gratuity system and forms of insurance as appropriate (e.g., micro, group, health, accident, life) for socio-economic needs of employees.
- A Construction Workers' Welfare Fund should be established with contributions from employers, construction workers and the Bangladeshi government for offering support to workers during off seasons and times of high unemployment.

Labour Relations and Social Dialogue

- Workers should be allowed to form and join occupation-based unions and associations free from reprisal.
- Companies must establish formal channels through which to levy formal complaints to minimize potential for workplace harassment.

Promoting and Safeguarding Human Rights in the Workplace

- Organize regular sessions with workers to inform them of their rights in the workplace and the services available to them to ensure their safety and fulfillment.
- Employers' associations must take responsibilities for monitoring and improving workplaces conditions, including capacity building with regard to workplace decorum and skill development.
- Enforce more strictly the provisions in BLA 2006 and other labour-related legislation.
- Broaden the scopes of workplace inspection and empower inspectors to collaborate with local civil administrations to investigate cases of workplace malfeasance.
- Align the national action plan with the UNGPs to improve human rights protections in the construction sector.