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On

Shipyards Workers' Rights in Bangladesh: A Critical Analysis

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DECLARATION

I, Md. Arifur Rahman, hereby solemnly declare and certify that I am the sole author of this research paper titled "Shipyard Workers' Rights in Bangladesh: A Critical Analysis". The purpose of this research is to complete my undergraduate degree as a requirement for graduation. All of the information and content that has been contributed here has references and acknowledgements. I further certify that I have followed all academic honesty and integrity.

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ABSTRACT

The rights of Bangladeshi shipyard workers are a major topic of this research project, which also examines how such rights are being violated. Workers' health and safety, as well as their ability to exercise their most basic workplace rights, are critical. Bangladesh started shipbreaking in the 1960s, and today, many workers continue to work there despite the significant danger of serious injury or even death. Shipbreakers usually don't have contracts with yard management and don't get paid for overtime or holidays. They also work long hours. Workers are losing their lives and suffering injuries when fires, disasters, and explosions hit from above or are hit by massive steel or iron blocks while they are at work. There are no labor rights, no unions, and no collective bargaining to stand against the violations. The living and working environments exhibit a total lack of standards. This research examined the national and international frameworks used to safeguard shipyard workers' rights in Bangladesh, analyzes the present situation, and lays out a course for future growth per international norms. It also identifies legal loopholes in Bangladesh and offers recommendations for changes the government could make to ensure that all workers have equal access to justice.

LIST OF ABBREVIATION

ILO-International Labour Organization

CRC-Convention on the Rights of the Child 1990

ICESCR-International Covenant on Economic, Social and Cultural Rights 1966

UNGPs-United Nations Guiding Principles on Business and Human Rights

HKIC-Hong Kong International Convention 2009

LA-Labour Act, 2006

CHAPTER 1: INTRODUCTION

1.1 Background of the Study:

The shipbreaking industry in Bangladesh has made significant economic contributions. There are currently around 200 operational shipbreaking yards in Sitakund (Bhatiary to Kumira) on Chittagong's northern shore.¹ This sector employs around 50,000 people directly and 1 lakh people indirectly.² These workers' rights are secured by International Law ensures that regulations are effectively implemented and followed.

Bangladesh passed the Labor Act in 2006, and it was further amended in 2013 and then 2018, ensuring the workers' rights by following the standards of ILO. But laws are rarely enforced in the shipbreaking sector, where there are significant safety issues and environmental risks. Human rights and worker rights are frequently infringed and child labor is prominent. Recent incidents where workers suffered severe injuries or even passed away are evidence of negligence.³ On 27 April 2022, Sedam Das (24) got injured when an iron chunk from a vessel struck his back but received minimal treatment.⁴ Another worker, Ataur Rahman (45), died in an accident while an iron sheet fell on him on 13th April 2021, and such cases go on.⁵ Though worker rights are protected by several procedural and substantive statutes in Bangladesh, there are still many flaws and inadequacies in the law and, defects in the execution process that hinder workers from seeking justice Shipbreakers typically do not have yard management contracts and are not paid for overtime or holidays. They also work long hours. When flames, disasters, and explosions strike from above or when workers are struck by huge steel or iron slabs while they are at work, they lose their lives and sustain injuries. No unions, no collective bargaining, and no labor rights exist to fight back against the violations. The working and living conditions show a complete absence of standards.

¹ 'Overview of Ship Breaking in Bangladesh' (Ship Breaking in Bangladesh)
<<https://shipbreakingbd.info/overview-of-ship-breaking/>> accessed 15 September 2022

² *ibid*

³ Ingvild Jenssen, Nicola Mulinaris, Sara Costa, Benedetta Mantoan and Pilar Gianni Rodriguez (eds), *South Asia Quarterly Update # 30* (NGO Shipbreaking Platform 2022)

<<https://shipbreakingplatform.org/resources/saqu/>> accessed 15 September 2022

⁴ *ibid*

⁵ 'Worker Died in RA Shipbreaking Yard' (Ship Breaking in Bangladesh)
<<https://shipbreakingbd.info/2021/04/worker-died-in-ra-shipbreaking-yard/>> accessed 15 September 2022

Currently, the shipbreaking market in Bangladesh is worth about BDT 13,000 crore.⁶ It is critical to Bangladesh's macro and microeconomics.⁷ Therefore, workers' rights must be preserved as the industry's lifeline to ensure the prosperity of the sector and, by extension, the nation's economy.⁸

1.2 Objectives:

This research's main objective is to evaluate Bangladesh's existing legal framework and policy framework with regard to shipyard workers' access to rights and to suggest some recommendations on this issue.

The objectives of this research are as follows:

- a) To have a discussion about the current national and international laws protecting the rights of shipyard workers.
- b) To identify the most significant gaps in the protection provided to Shipyard workers under existing Bangladeshi legislation.
- c) To propose some suggestions for improving the existing legal system and addressing the gaps in Bangladesh.

1.3 Research Question:

- a) Do the existing laws and policy of Bangladesh effectively protect the rights of shipyard workers?

1.4 Methodology:

This research will be conducted using a secondary database and will be qualitative in nature. This study focuses on secondary sources like articles, books, case studies, news articles, newspapers, international articles, journals, and documents from various NGOs to analyze the rights of shipyard workers and determine whether Bangladesh's current legal system is comprehensive or if any gaps exist. By conducting research on relevant published and unpublished literature, reports, and documents on workers' rights and working conditions in

⁶ 'Ship Breaking and Recycling Industry of Bangladesh' (*Business Inspection*, 18 February 2022) <<https://businessinspection.com.bd/ship-breaking-industry-of-bangladesh/>> accessed 15 September 2022

⁷ *ibid*

⁸ *Ibid*

the shipping industry, it was possible to gain an in-depth understanding of how workers are deprived of their rights and work in hazardous conditions.

1.5 Limitations:

The author of this research is aware of the limitations and flaws in it even though it was carefully written. Here, I study a variety of journals and newspapers, articles, documents, etc., but the available resources are insufficient. There is also a lack of research web documentation. It's hard to download or read all the subscriptions. I completed my research with ideas after reading a variety of web publications, books, news articles, and case judgments. Because of this, one of the limitations with the work is that there aren't enough relevant materials.

CHAPTER 2: HISTORICAL BACKGROUND AND DEFINITION

2.1 Definition of Shipyard Worker:

A shipyard is used for shipbuilding and repair. Shipyards are vast areas where marine boats are built, refurbished, and repaired. Ships, submarines, yachts, military boats, cruise liners, and cargo/passenger ships are included. Shipbreaking yards dismantle or destroy ships. In this context, "shipyard workers" refers to the people who build, maintain, and even demolish ships and boats. Shipyard workers also clean up chemical and fuel spills; cut and weld steel; machine, plumbing, electrical work; rig; paint; and remove paint and other coatings. But there is no standard or clear definition of a shipyard worker in the international law.

The International Labour Organization (ILO) defines an employed person as someone who is 15 years of age or older and has worked (for pay or profit) at least one hour per week or has a job from which they are absent under circumstances indicating the reason for their absence (holidays, sick leave, maternity leave, etc.) or duration⁹. Article-1(1)(b) of the Hours of Work (Industry) Convention, 1919 defines industrial undertakings to include both shipbuilding and the demolition of existing structures.¹⁰ Therefore, a person who works in a shipyard to build, repair, or even break down ships should be considered a shipyard worker if they are at least 15 years old, have worked (for pay or profit) at least one hour a week, or have a job that they are absent from because of holidays, sick leave, maternity leave, etc.

The ILO Code of practice on safety and health in shipbuilding and ship repair defines "worker" as any regular or temporary employee.¹¹ And also define employer. An employer is anyone, physical or legal, who hires workers in the shipbuilding or ship repair industries. This includes the operator, principal contractor, contractors, and subcontractors.¹²

According to Article 3 (1) (6), Ship Recycling and Amending Regulation (EC), Ship Recycling entails dismantling a ship at a ship recycling facility in order to recover components and materials for reprocessing, re-use preparation, or re-use, while also managing hazardous and other materials. It comprises storing and treating materials on site, but not further processing

⁹ 'Employment (According to the International Labour Organization (ILO) Definition)' (*Insee*, 28 January 2021) <<https://www.insee.fr/en/metadonnees/definition/c1159>> accessed 27 June 2022

¹⁰ Hours of Work (Industry) Convention, 1919 (No. 1) (adopted 28 Nov 1919, entered into force 13 June 1921)

¹¹ International Labour Office, *Safety and Health in Shipbuilding and Ship Repair* (Revised edn, International Labour Organization 2019)

¹² *ibid*

or disposal.¹³ Article 3 (2)(c) of this Regulation (EC) defines "worker" as anyone with a regular or temporary employment relationship, including contractors and subcontractors.¹⁴

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), defined a shipyard worker as an "employee" in the Occupational Safety and Health Standard for Shipyard Employment. "Employee" means anyone who works in ship repairing, shipbuilding, shipbreaking, or related work in U.S. navigable waters, like dry docks, graving docks, and marine railways, but not the ship's captain, officers, crew, or anyone hired by the captain to fix a ship under 18 net tons.¹⁵ As a consequence of this, a shipyard worker is someone who works in a shipbuilding or ship repair establishment on a regular or temporary basis, either directly or through an employer, the operator, or the principal contractor, or contractor, or subcontractor.

In Bangladesh, the definition of a shipyard worker is not properly or precisely defined in the Labour Act, 2006; rather, the Labour Act considers shipyard workers to be included within the concept of worker. In section 2(xi) of the Ship Breaking and Recycling Rules of 2011, it states that "worker" means a worker as defined by the Labor Act of 2006. The concept of "worker" is states in section 2(65) of the Labour Act of 2006 as a person who performs any kind of skilled, unskilled, clerical, manual, or technical work in any kind of establishment or industry is considered to be a worker. The Act further states that a worker does not include a person who is employed primarily in a managerial or administrative function.¹⁶ Shipbuilding and recycling are defined as "industrial undertakings or establishments" under section 233(g) of the Labour (Amendment) Act, 2013. Bangladesh Labour Act 2006 section 2 (Lxi) (c) states that industrial undertakings also include contractor's or sub-contractor's establishments for the purpose of construction, reconstruction, repair, alteration, or demolition of any building, or ship-breaking. Thus, a shipyard worker in Bangladesh is a person who performs skilled, unskilled, clerical, manual, or technical work in the shipbuilding and recycling industries or establishments directly or through a contractor.

¹³ Directive 2009/16/EC European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) [2013] OJL 330

¹⁴ *ibid*

¹⁵ 'Occupational Safety and Health Standards for Shipyard Employment' (CFR) <[https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XVII/part-1915#p-1915.4\(d\)](https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XVII/part-1915#p-1915.4(d))> accessed 26 June 2022

¹⁶ *Sonali Bank v. Chandon Kumar Nandi* [1996] 48 DLR (AD) 62

This thesis will attempt to look into a brief history and an evolution of the ship recycling and shipbuilding industries in order to better comprehend the topic.

2.2 History of Shipyard Workers:

2.2.1 Global History of Shipyard Workers:

People have used ships and boats to travel by sea for centuries. Some of the earliest ships were made by the Phoenicians, Greeks, and Egyptians.¹⁷ Humans have long desired to travel by water. For fishing, traveling, exploring, trading, and fighting, they used boats and ships. When people first started making boats and ships, they modified them to make water travel easier, faster, and safer.¹⁸ The Egyptians were among the first shipbuilders.¹⁹ Egypt's vases and tombs include the oldest boat images.²⁰ These 6,000-year-old photos reveal narrow vessels.²¹ They are primarily made of sedge reeds and are propelled by oars.²² The Egyptians used their ships to trade in the Mediterranean Sea.²³

Greeks and Phoenicians began maritime trading around 1200 BC.²⁴ They utilized the galleries as both warships and trading ships. Rowers eat in one, two, or three-row battle galleries. Phoenicians made long sea voyages but stayed near to coast. They sailed to Cornwall in search of tin. The gallery was used until 1800.²⁵ The galley's main weapon was a pole mounted to the bow. High-speed ram hit the hostile ship. Archers and spearmen are displayed. They had masts and square sails, but were destroyed in battle.

Shipbuilding has a long history in the Pacific Northwest. Skilled shipbuilders arrived soon after the American occupation to repair and equip Oregon and Washington Territory's seagoing ships.²⁶ As the logging and fishing industries emerged, each dependent on California and trans-Pacific markets, tiny shipyards around Portland, Tacoma, and Seattle built fishing fleets; small boats are increasing in the area.²⁷ Before 1934, only 1.4% of California's riverside workers

¹⁷ 'Shipbuilding: The Earliest Vessels' (*Royal Museums Greenwich*)

<<https://www.rmg.co.uk/stories/topics/shipbuilding-earliest-vessels>> accessed 15 September 2022

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ *ibid*

²¹ *ibid*

²² *ibid*

²³ *ibid*

²⁴ *ibid*

²⁵ *ibid*

²⁶ 'Shipyard Workers' (*Waterfront Workers History Project*)

<https://depts.washington.edu/dock/shipyards_intro.shtml> accessed 15 September 2022

²⁷ *ibid*

were black. Seattle and Portland have significantly lower numbers.²⁸ Prior to World War II, many Seattle waterfront unions had few people of color, including local 541 of Shipyard Workers, Dry Docks, and Other Shipyard Workers.²⁹ Late, During WWII, more than half the union's members were black. This shift in Seattle's marine workforce was caused by black workers from the East and South seeking wartime work. Seattle's black population rose from 3,700 to 10,000 between 1940 and 1945. African-American immigrants dominated the non-discriminatory Ship Scalpers Union (SSU).³⁰ Shipwrights conduct the dirtiest, lowest-paid dock maintenance work. These employees cleaned below the waterline, scrubbing spokes and cleaning oil drums and bunkers. The Seattle General Strike of 1919 lasted six days.³¹ Almost all of Seattle's workers joined the strike, shutting down the city. The purpose is to support the Seattle Metals Exchange Council, which went on strike on January 21 for a salary hike. A wage battle between 45,000 shipyard workers and the U.S. Shipping Commission led to a general strike that shut down a major U.S. city on the Pacific Coast³². Shipyard workers fought for better pay as they produced ships for the American war effort, sparking the Seattle General Strike.³³

2.2.2 History of shipyard worker in Bangladesh:

Bengal Subah had a large shipbuilding industry during Mughal rule. Bengal produced 223,250 tons of ships annually in the 16th and 17th centuries.³⁴ Due to a lack of natural resources, Bengali shipbuilding was advanced compared to European. Bangladeshi shipbuilding labor is cheaper than Chinese, Korean, and Japanese labor. Their labor share is a valuable asset because it depends on total production costs and labor intensity. Bangladesh's young, fast-growing workforce has reduced labor costs, ensuring the highest cost, quality, and productivity. Bangladesh's shipbuilding capability rivals India's, the most efficient in South Asia. India is 2.5 times less productive and efficient than South Korea, which is 4 times more expensive than

²⁸ ibid

²⁹ Adam Farley, 'The Ship Scalpers Union and Seattle's Racial Progressivism in the 20th Century' (*Waterfront Workers History Project*) <https://depts.washington.edu/dock/ship_scalpers.shtml> accessed 15 September 2022

³⁰ ibid

³¹ ibid

³² Patterson Webb, 'Seattle Shipyard Workers on the Eve of the General Strike' (*Seattle General Strike Project*) <https://depts.washington.edu/labhist/strike/shipyards_webb.shtml> accessed 15 September 2022

³³ ibid

³⁴ Md. Mahmudul Hassan, Naveed Anjum and Ahnaf Rahman, 'An Overview Of The Dockyard Industry In Bangladesh: A Review Study' (2022) 6 *BMJ* 157, 158

Bangladesh in human resources, which favors Bangladesh. Bangladesh's geographical advantage makes it easier to develop small and medium-sized shipyards.³⁵

Reportedly, in the 1960s, a cyclone stranded the Greek ship MD Alpine in Sitakund, Chittagong. Chittagong Steel House eventually scrapped the ship.³⁶ In 1971, Pakistan's Al Abbas was bombed. Later, it was brought to Fauzdarhat. In 1974, Karnafully Metal Works Ltd bought it as scrap to start commercial shipbreaking in Bangladesh. The 1980s saw industry growth. Bangladesh's economy is doing well. In India, Bangladesh, and Pakistan, high tides are perfect for beaching ships. From Fauzdarhat to Kumira, Bangladesh, about 200,000 people recycle ships.³⁷ Bangladesh ranks first in ship recycling³⁸. Most shipbreaking laborers come from northern Bangladesh, where there are few jobs. Most yards don't issue workers an appointment letter or formal contract. Workers can't exercise their right to permanent, secure employment since they cannot prove an employment relationship with yard owners.³⁹ Their pay depends on hours, skill, and effort. Accidents and injuries are common in shipbreaking. Lack of training, modern equipment, firefighting gear, protective garments; helmets, gloves, boots, goggles; carelessness and casualness of workers; restricted washing area; poor hospital, ambulance, and first aid facilities cause frequent accidents and death.

It is essential to protect the rights of shipyard workers since the shipbuilding and shipbreaking sectors have a significant impact on the nation's economy. So, it is crucial to look at the international framework to see how their rights are protected by international law. This will also help find the gap in national law.

³⁵ *ibid*

³⁶ Khandakar Akhter Hossain, 'Overview of Ship Recycling Industry of Bangladesh' (2015) 5 *Journal of Environmental & Analytical Toxicology* 312

³⁷ *ibid*

³⁸ *ibid*

³⁹ Overview of Ship Breaking in Bangladesh (n 1)

CHAPTER 3: SHIPYARD WORKERS' RIGHTS UNDER INTERNATIONAL LAW

Shipping industry workers have always been protected by international laws. In recent decades, it's become evident that improperly processing and disposing of hazardous waste can harm health.⁴⁰ International regulation was demanded to guarantee human rights standards for occupational health and safety due to the industry's migration from industrialized, heavily regulated nations to those without enforcement and regulatory frameworks. Shipbreaking yards and governments are liable. Before the IMO's Hong Kong Convention took effect, shipbreaking industry authorities used to ease problems at yards, considering the importance of the shipbuilding and shipbreaking industries to the national economy. International laws must be strictly maintained to protect shipyard workers and the industry.

3.1 International Labor Organization:

3.1.1 Conventions: The International Labor Organization is a founding member of the United Nations. The ILO Conventions address a variety of social and labor-related issues, including worker rights, health and safety, and child labor, as well as fundamental human rights, minimum wages, labor relations, employment policy, social dialogue, social security, and other issues.⁴¹ Hence, the rights of shipyard workers are safeguarded by the ILO. But the important fact is that the main ship-breaking nations have not ratified some significant ILO conventions. For instance, the ILO adopted the Labour Inspection Convention in 1947; 141 nations have ratified it. But the US and India have not. The Occupational Safety and Health Convention, adopted in 1981, is only ratified by Turkey and China among the main ship recycling nations, and Protection of Wages Convention, adopted in 1949, is not ratified by Bangladesh, India, China, Pakistan, and the US. Even so, the ILO, which knows a lot about labor issues, has a big impact on ship recycling.

3.1.2 Minimum Wage Fixing Convention (No. 131) 1970:

The ILO adopted these conventions in 1970. Article 3 of this convention provides the factors to be considered when setting the minimum wage. These factors are: the needs of workers and their families, taking into account the general level of wages in the country; the cost of living; social security benefits; and the relative living standards of other social groups; and economic

⁴⁰ Shawkat Alam and Abdullah Faruque, 'Legal Regulation of the Shipbreaking Industry in Bangladesh: The International Regulatory Framework and Domestic Implementation Challenges' (2014) 47 Marine Policy 46.

⁴¹ 'ILO Conventions' (*International Labour Organization*) <http://www.ilo.org/moscow/areas-of-work/gender-equality/WCMS_249143/lang--en/index.htm> accessed 25 July 2022

factors, including the requirement for economic development, high productivity, and high employment. This convention has not been ratified by Bangladesh. A wage is a worker's right. However, wages are not fixed in Bangladesh.⁴² where shipyard workers are paid less than the minimum wage.⁴³

3.1.3 Hours of Work (Industry) Convention, (No. 1) 1919:

Workers' wages depend on hours, the job type and skill level. Article 2 of this convention sets regular (pre-overtime) hours at 8 hours per day, 48 hours per week with some exceptions. Furthermore, according to Article 9 (e), one day off every seven days is required. Bangladesh ratified this convention. In Bangladesh, shipyard industry workers work extremely long hours for little pay with no right to overtime sick or annual leave.⁴⁴

3.1.4 Minimum Age Convention, 1973 (No. 138):

Child labor is prohibited by the ILO. therefore, Convention No. 138 sets the minimum age for work at 15, though 14 is allowed for a specific period of time. The minimum age for labor that jeopardizes health, safety, or morals is 18, whereas light work that doesn't affect health or schoolwork is 13–15. Bangladesh signed ILO Convention 138 in January 2022 to set the minimum working age at 14 and eliminate child labor by 2025.⁴⁵ However, Shipyard contractors prefer minors because they are cheaper than adults.⁴⁶ Shipbreaking yards are poisonous and dangerous for youngsters.⁴⁷

3.1.5 Worst Forms of Child Labour Convention, 1999 (No. 182)

This Convention prohibits the worst forms of child labour. Article 3 states that the worst forms of child labor are slavery, commercial sexual exploitation, and work that harms children's health, safety, or morals. Bangladesh adopted this convention, which prohibits and eliminates the worst kinds of child labor immediately. Still, no yard owner has ever been held liable for child labor, not even when a young worker is seriously harmed or dies at a shipbreaking yard.⁴⁸

⁴² Anika Mardiah Chowdhury, 'Employee's Rights at Workplace in Bangladesh' (*Jural Acuity*, 22 June 2021) <<https://juralacuity.com/employees-right-at-workplace-in-bangladesh/>> accessed 7 August 2022.

⁴³ 'Worker Rights Violation'(Ship Breaking in Bangladesh) <<https://shipbreakingbd.info/worker-rights-violation/>> accessed 6 August 2022

⁴⁴ *ibid*

⁴⁵ Star Business Report, 'Bangladesh Ratifies ILO's Convention on Minimum Working Age' (*The Daily Star*, 20 March 2022) <<https://www.thedailystar.net/business/news/bangladesh-ratifies-ilos-convention-138-minimum-working-age-now-14-2986776>> accessed 7 August 2022

⁴⁶ Worker Rights Violation (n 43)

⁴⁷ 'Child Labour'(NGO Shipbreaking Platform) <<https://shipbreakingplatform.org/issues-of-interest/child-labor/>> accessed 6 August 2022

⁴⁸ *ibid*

3.1.6 Guidelines for Safety and Health in Ship Breaking:

The ILO Governing Body organized an Interregional Tripartite Meeting of Experts on Safety and Health in Shipbreaking for Selected Asian Countries and Turkey to adopt guidelines. ILO set guidelines for Asian countries and Turkey at a 2003 meeting in Bangkok. All participants worked together to formulate shipbreaking guidelines. The Guidelines aren't binding and don't replace national laws, rules, or standards. In absence of national systems, procedures, and business regulations, they act as guide.

According to ILO guidelines, safety and health means the employer takes precautions to reduce risks. ILO guidelines include ways to reduce accidents, maintain shipbreaking yards, and track hazardous chemicals. Employers are required by national laws and rules to make sure their workers are safe and healthy on the job. This includes making sure that Occupational Safety and Health Administration (OSHA) Rules are followed.

The clause 3.6. states the rights of workers. In accordance with national laws and regulations, workers should be able to report safety and health dangers from ambient variables at work. Workers should be entitled to appeal to the competent authority or labour inspectors if they believe employer measures are inadequate. These workers shouldn't return until the problem is solved.

The clause 4.3.1 (e) also states that before starting work, an employer or contractor must review previous data to ensure safety and health. The contractor avoids registering his name and signing agreements while hiring labor. Because the majority of workers have no record with their employers or contractors, employers or contractors have never analyzed the data.⁴⁹

According to clause 3.8.2 (b), contractors must be registered or licensed, but there is no provision for registering new employees based on their area of work. Due to this gap, contractors do not report work-related injuries or deaths and do not compensate victims.⁵⁰

The clause 3.6.1 states that in the lack of proper knowledge to assess safety and health hazards, avoid using hazardous equipment, processes, or substances, and avoid operating or tampering with unpermitted tools, machines, or equipment. Workers should get training and retraining in ways that are easy to understand and use the best tools available to reduce safety and health risks. Most workers are illiterate and untrained. They have no knowledge of or recommendations concerning their work.⁵¹ This causes more accidents, injuries, and deaths.⁵²

⁴⁹ Amber Zarqa, Bukhari Shah and Kashif Zadi, 'Labor Rights Violation in Ship Recycling Industry: A Critical Review of International Labor Organization (ILO) Guidelines' (2020) 3 North American Academic Research 47

⁵⁰ *ibid*

⁵¹ *ibid*

⁵² *ibid*

And Clauses 4.3.2 and 4.4.1 emphasize reviewing and analyzing data to build a systematic method for ship recycling safety measures and policies. Reality differs from the previous clauses. One worker dies in the yards every week, and one is injured daily.⁵³ Injuries and burns are fairly common. In a severe situation, shipyard employees lack safety safeguards.⁵⁴

3.2 United Nations:

3.2.1 United Nation Convention on the Rights of the Child (CRC),1990:

Children's rights are protected by this convention. They are protected from economic exploitation and employment that is harmful to their physical, mental, or social development, as stated in article 32. This convention was ratified by Bangladesh in 1990. A variety of laws exist in Bangladesh to safeguard children.⁵⁵ Though Children are still seen working in Bangladesh's shipbreaking yards.⁵⁶

3.2.2 International Covenant on Economic, Social and Cultural Rights (ICESCR)1966:

According to Article 6 of the Covenant, the States Parties recognize the right to work, utilizing freely chosen or accepted work. Authorities must take "appropriate steps" to safeguard this right, which includes technical and vocational guidance and training programs, policies, and techniques that ensure full employment while preserving fundamental political and economic freedom. But environmental policies and laws are not upheld in shipbreaking yards.⁵⁷

Again, Article 7 acknowledges the right to "just and favorable" working conditions. Every worker should get a fair wage so they can live a good life with their families and enjoy "equal pay for equal work. Also, safe working conditions; equal opportunity in the workplace, especially for women; and adequate rest and leisure time, including capped working hours and scheduled, paid holidays, must all be guaranteed. However, shipyard workers' salaries are low, and they often work overtime.⁵⁸ The workers' right to stable, long-term employment is not respected.⁵⁹ There is no maintenance of workplace safety and health.⁶⁰

⁵³ Worker Rights Violation (n 43)

⁵⁴ ibid

⁵⁵ ibid

⁵⁶ ibid

⁵⁷ ibid

⁵⁸ ibid

⁵⁹ ibid

⁶⁰ ibid

The right of workers to form or join trade unions and to exercise the right to strike is recognized in Article 8 of the Covenant. And any time they try to form or join a union to improve their working conditions, it jeopardizes their jobs.⁶¹

Bangladesh has ratified this covenant in 1998. In 2006, Bangladesh enacted the Labor Act. The act was then amended in 2018.⁶² The act attempts to make labor law more worker-friendly by regulating the behavior of workers and owners in accordance with ILO norms.⁶³ In spite of new regulations and legislation, governance is weak and law enforcement is nonexistent. Also, corruption makes it harder to implement laws and regulations.

3.2.3 United Nations Guiding Principles on Business and Human Rights (UNGPs):

According to principle 17 of the UNGPs, businesses must act with due diligence to prevent violating others' rights and to redress any negative effects on human rights. The business enterprise may be directly responsible for the impacts through its operations, products, or services, or indirectly through its interactions with suppliers.

Principle 23 is providing guidance to businesses are those in which national law is weak or silent, when national laws are in direct contradiction with international standards, and where businesses risk being engaged in serious violations of human rights. All three may be important to consider when conducting business in conflict-affected areas. Principle 23 states that businesses should respect human rights wherever they operate, especially when faced with conflicting requirements. Though, companies that do due diligence are still subject to liabilities if they contribute to or cause human rights violations.

However, because of the temporary employment practice, shipyard owners can easily transfer many substantive obligations to the workers to the contractors and subcontractors.⁶⁴ In Bangladesh, the owners and contractors of shipbreaking yards have a massive edge over the workers. Since there aren't many employment opportunities, they do not care about the workers' human rights as they can be quickly replaced.⁶⁵ Business corporations are also at ease shipping

⁶¹ *ibid*

⁶² Md Azhar Uddin Bhuiyan, 'Analysing the Draft Bangladesh Labour (Amendment) Act 2018' (*The Daily Star*, 25 September 2018) <<https://www.thedailystar.net/law-our-rights/law-analysis/news/analysing-the-draft-bangladesh-labour-amendment-act-2018-1638034>> accessed 9 September 2022

⁶³ *ibid*

⁶⁴ *ibid*

⁶⁵ Hassan (n 34)

their ships to Bangladesh because shipbreaking businesses here are not restricted by any environmental rules and can offer sufficient labor at a low price, making business simpler.⁶⁶

3.4 Regional Convention:

3.4.1 The Hong Kong International Convention (HKIC) for the Safe and Environmentally Sound Recycling of Ships, 2009:

On May 15, 2009, the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships was established during a Diplomatic Conference in Hong Kong, China, with the goal of preventing undue risk to human health and safety or the environment. With the assistance of the ILO and the Basel Convention parties, it was created by the IMO member nations and non-governmental organizations. Regulations 19 to 23 of the Convention cover health and safety as well as a sound and safe environment in shipbreaking industries.

Regulation 19 addresses the prevention of negative impacts on human health and the environment. Ship Recycling Facilities authorized by a party must prevent accidents, occupational diseases and injuries, or other harmful consequences on human health and the environment, and prevent spills or emissions during ship recycling, using Organization guidelines.

Regulation 22 addresses safety and training. A party-authorized Ship Recycling Facility must provide, maintain, and use Personal protective Equipment (PPE) for all ship recycling operations. A ship recycling facility must train workers. Initial and refresher training should be reviewed regularly and documented. Meanwhile, workers are unskilled and terribly underpaid. The yard workers do not have the PPE or other safety gear that would be considered a minimum standard in a first-world country.⁶⁷

Regulation 23 of the convention requires authorized ship recycling facilities to report any incident, accident, occupational sickness, or long-term consequence that threatens worker safety, human health, or the environment. But in reality, many injuries and deaths go unreported because workers are sick, forced to leave, or afraid of losing their jobs.⁶⁸ As there is no registry for workers and most are employed on a need-basis or through a labor contractor,

⁶⁶ Worker Rights Violation (n 43)

⁶⁷ Hasnat M. Alamgir, 'Occupational Safety of Ship Breaking Workers' (*The Financial Express*, 12 October 2020) <<https://www.thefinancialexpress.com.bd/views/occupational-safety-of-ship-breaking-workers-1602516384>> accessed 16 August 2022

⁶⁸ *ibid*

fatality or injury cases are hard to follow.⁶⁹ There are allegations of employees' bodies being hidden after they pass away at work or of paying off the local press or police to withhold information about fatalities.⁷⁰ However, the HKIC is regarded as the pioneer in regulating the ship-breaking industry. And yet, Bangladesh has not ratified this convention. But it is imperative for Bangladesh to become a party to the convention.⁷¹

We analyzed international law to determine how the rights of workers at shipyards are protected. Now we must analyze national laws to determine how international norms are being followed and how their rights are being protected. It will aid in understanding the true situation of shipyard workers.

⁶⁹ *ibid*

⁷⁰ *ibid*

⁷¹ Shreya Mishra, 'Non-Entry into Force of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009: An Analysis from the Perspective of India, Pakistan and Bangladesh' (2018) 2 *Journal of International Maritime Safety, Environmental Affairs, and Shipping* 22

CHAPTER 4: SHIPYARD WORKERS' RIGHTS IN BANGLADESH

The nation's economy is significantly impacted by the shipbuilding and ship breaking industries. Therefore, a shipyard worker has an effect on the economy. Shipyards are risky workplaces with life-threatening risks. Working conditions are hazardous in shipyards due to the structural complexity of the ships and the many environmental, safety, and health issues involved. So, the shipyard workers have to be taken seriously. As a citizen, the shipyard worker has all the rights guaranteed by the Constitution.

According to Article 14, it is the state's fundamental responsibility to emancipate the toiling masses, peasants and workers, and backward sections of the people from all forms of exploitation. According to Article 20, everyone who is capable of working has a right to work, a duty to work, and a matter of honor; and everyone who works must be paid for their labor according to the guiding principle "from everyone according to his abilities, to each according to his work". Insofar as Article 32 provides "the right to life," and if we define it broadly, that right includes the right to adequate medical treatment. Article 29 provides equal work opportunity. Everyone in Bangladesh has the right to labor, regardless of gender, caste, race, religion, or birthplace. So, Shipyard workers are constitutionally protected.

The Bangladesh government has enacted laws to protect the workers' rights. Such laws are being discussed below:

4.1 General Laws and Policy Regarding Shipyard Worker:

4.1.2 The Bangladesh Labour Act, 2006 (XLII Of 2006): As discussed earlier, shipyard workers are subject to this Act. The law regulates working conditions, health and safety concerns, regular working hours, leave, and compensation. Section 3 of the Act states that each establishment may have its own service rules and employment regulations, but such rules must be beneficial to all workers.

Section 2(45) of the Act defines "wages" as all remuneration, expressed in money or capable of being expressed, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a worker in respect of his employment or work done in such employment, and includes any other additional remuneration of the aforesaid nature which would be so payable. Section 120 establishes a particular definition of wages. Under Section 121 of this Act, the employer is responsible for paying wages to his workers, but there are two exceptions. There is, however, no provision for Minimum Wage Fixing, as is required by the

ILO. Although Bangladesh has not ratified Minimum Wage Fixing Convention (No. 131). But the minimum wage for shipbreakers was set by a gazette notification that was published on February 11th, 2018 at TK16,000 overall.⁷² The gazette also made it compulsory that no employee or worker be paid less than the minimum wage in the shipbreaking industry.⁷³ But still, we see that shipyard workers work long hours for little pay.⁷⁴ Labour activists say that employers are unwilling to implement a minimum wage.⁷⁵

Bangladesh has adopted the Hours of Work (Industry) Convention (No. 1). In order to adhere to the ILO standard, Bangladesh incorporated the convention's provisions into the Labour Act of 2006. Section 100 of the 2006 Labour Act sets working hours at eight per day and 48 per week for adults. Section 105 of the act limits overtime to 10 hours. Overtime pay is approximately double a worker's regular wage if he works more than 48 hours a week. Section 106 of the Act contains night shift rules. If a worker can work four days in a row for 10 hours, the shipyard owner or contractors must pay him overtime. Since most temporary workers work for contractors. They don't get sick leave, annual leave, or extra pay for overtime.

Sections 10 and 11 of this Act provide all workers the right to request leave and holidays. As the worker is entitled for casual leave⁷⁶, sick leave⁷⁷, festival leave⁷⁸ and annual leave⁷⁹ types. The workers at the shipyard are the restless ones. A worker might not always be able to work with the same contractor. Temporary workers may work for different contractors on different days of the week, so rules about weekly holidays don't help them. Shipyard workers work through long hours for poor wages and no right to overtime sick or annual leave.⁸⁰

By following ILO standard this Act prohibits all child labor.⁸¹ Adolescents can be hired if a medical certificate or birth certificate is kept by the employer⁸² and they are supervised by an

⁷² Anwar Hussain, 'Ship-Breaking Industry: Minimum Wage Still a Far Cry' (*Dhaka Tribune*, 25 December 2019) <<https://archive.dhakatribune.com/business/2019/12/25/ship-breaking-industry-minimum-wage-still-a-far-cry>> accessed 10 September 2022

⁷³ *ibid*

⁷⁴ Worker Rights Violation (n 43)

⁷⁵ Hussain (n 72)

⁷⁶ Bangladesh Labour Act 2006, s 115

⁷⁷ *ibid* s 116

⁷⁸ *ibid* s 118

⁷⁹ *ibid* s 117

⁸⁰ Worker Rights Violation (n 43)

⁸¹ Bangladesh Labour Act 2006, s 34

⁸² *ibid*

adult at work.⁸³ The Labour Act, 2006 also penalizes the parents of child laborers.⁸⁴ But Children are preferred by contractors since they're cheaper than adults. According to an NGO survey, 13% of Bangladeshi shipbreakers are adolescents.⁸⁵ Constant exposure to poisonous gases and asbestos fibers raises cancer and injury risks.⁸⁶ If a child worker is injured, he won't be compensated, leaving medical bills to his family.⁸⁷

Section 150 requires authorities to compensate workers injured in workplace accidents. According to this Act, any shipbreaking industry is a separate industrial organization, and any contractor or subcontractor is also a separate industrial organization and liable for all of its actions as an employer.⁸⁸ However, due to temporary employment, yard owners can easily transfer many substantive obligations to contractors and subcontractors. According to LA 2006, yard owners are not required to pay for contractor-caused injuries or negligence in most cases, only the contractor can compensate workers for death or injury.

Every establishment is required to keep a clean and healthy environment.⁸⁹ every establishment must dispose of industrial waste and effluents. All establishment must ensure proper ventilation and temperature.⁹⁰The Act also specifies how to prevent overcrowding, provide enough light and water, and ensure health and hygiene.⁹¹ The shipbreaking industries in Bangladesh are not in compliance with any of these standards.⁹²

For the purpose of healthy and safe work place vessel's entry is barred by government. The High Court Division issued an order in March 2009 ordering all arriving vessels to have been cleaned of asbestos, PCBs, heavy metals, and other toxins in compliance with national law and the Basel Convention.⁹³ Unfortunately, the MT Alfa-ship has entered the country's territorial seas despite being forbidden entry by various statutory authorities.⁹⁴ The ship is a hazardous

⁸³ *ibid* s 40

⁸⁴ *Ibid* s 285

⁸⁵ Child Labour (n 47)

⁸⁶ Worker Rights Violation (n 34)

⁸⁷ Child Labour (n 47)

⁸⁸ Bangladesh Labour Act 2006, s 2

⁸⁹ *ibid* s 54

⁹⁰ *ibid* s 52

⁹¹ *Ibid* ss 52-60

⁹² Md Saiful Karim, 'Violation of Labour Rights in the Ship-Breaking Yards of Bangladesh; Legal Norms and Reality' (2009) 25 *International Journal of Comparative Labour Law and Industrial Relations* 379

⁹³ *BELA v. Bangladesh and others Writ Petition No. 7260 of 2008*

⁹⁴ Md. Ashabur Rahman, Mansura Akter and Wahidul Sheikh, 'A National and International Regulatory Framework for Establishing Sustainable Shipbreaking Industry in Bangladesh' (2019) 3 *BMJ* 87

one that threatens the country's environment.⁹⁵ Bangladeshi government agencies are neither effective nor active in enforcing labour and environmental laws in the ship-breaking sector.

For not implementing a 2009 verdict, the Bangladesh High Court has issued a contempt order against 14 government officials, including ministries and shipbreakers.⁹⁶

4.1.3 National Health Policy 2011:

The Bangladesh health policy paper was published in 2011. This Policies have some specific goals: ensuring everyone has access to emergency treatment and improving access to primary care. This will raise demand for health-care services, impacting rights and dignity. In actuality, people who suffer long-term or irreversible damage are not compensated. When there is public pressure, a little sum of compensation is offered. Workers are usually paid for travel costs home. One of the major issues that reduces the efficacy of this policy is a lack of the necessary financial resources.⁹⁷ So, this policy wasn't effective in addressing shipyard workers' health issue.

4.1.4 National Occupational Safety and Health Policy 2013:

The National Policy on Occupational Health and Safety was adopted on November 5, 2013 to increase industrial productivity and protect workers' health and safety in light of international, ethical, and legal obligations to create a healthy and safe workplace for all. The policy aims to enhance OSH awareness and compliance in Bangladesh's formal and informal sectors. A strong national OSH framework will help by reducing work-related fatalities, injuries, and diseases.

Article 3.a.1 specifies that workplace safety and health protection must be ensured based on international conventions, declarations, recommendations, and documents. Article 4.a.2 states that occupational health and safety legislation must be enforced nationally. All relevant ministries and agencies must address occupational safety and health in their policies and activities. Article 4.A.15 requires OSH implementation in industrial zones and factory safety. Article 4.A.22 requires OSH principles for government-run construction.

⁹⁵ ibid

⁹⁶Contempt Petition No. 265 of 2010

⁹⁷ Munzur-E- Murshid and Mainul Haque, 'Hits and Misses of Bangladesh National Health Policy 2011' (2020) 12 Journal of Pharmacy & Bioallied Sciences 83

4.1.5 The Fatal Accidents Act, 1855 (Act No. XII Of 1855):

The Fatal Accidents Act of 1855 was enacted to provide compensate families for deaths caused by actionable wrongs. According to section-1 when a worker dies or is injured at work, the company must take action and recover damages. The party who is responsible for the death or injury must pay damages to the victim's spouse, parents, and children. The court shall direct the defendant to pay the victim's family the damages it deems appropriate, after deducting charges and expenditures. The provision can aid shipyard workers directly or indirectly.

4.2 Special Laws and Rules Regarding Shipyard Worker:

4.2.1 The Shipbreaking and Recycling Rules, 2011:

Bangladesh's High Court Division passed the Shipbreaking and Recycling Rules, 2011. The High Court Division passed shipbreaking and recycling rules in writ petition no. 7260 of 2008, based on the (HKIC) to address OHS and environmental issues related to ship recycling activities.⁹⁸

In 2009, on another case the High Court Division has discussed noise pollution indirectly. The High Court Division concluded that shipbreaking workers are affected by excessive noise from grinding, hammering, metal cutting, and vessel breaking.⁹⁹ Ship recycling in Bangladesh is weak and generally noncompliant with basic requirements. The Shipbreaking and Recycling Rules, 2011 Rule is still applicable for the Ship Recycling Act,2018 Act as per section 44.

Chapter IV covers worker safety and hazardous waste management. Rule 17.1 requires theoretical and on-the-job training from an SBSRB-supervised trade organization training institute. Contractors must train unskilled workers. This rule penalizes shipbreakers who hire uncertified workers,¹⁰⁰ women,¹⁰¹ or minors.¹⁰² Workers from contractors must follow the same rules.¹⁰³ Bangladesh's ship recycling OHS training is inadequate and rarely meets minimum standard. The Bangladesh High Court ruled in 2009 (Verdict 6/4/11) that ship recycling yard

⁹⁸ *Rahman* (n 94)

⁹⁹ Bangladesh Environmental Lawyers Association (BELA) v Bangladesh (2009) 7 LG (HCD) 118

¹⁰⁰ Shipbreaking and Recycling Rules,2011 Rule 46

¹⁰¹ Ibid Rule 45.5

¹⁰² Ibid Rule 46.4

¹⁰³ ibid Rule 17.1

workers must be adequately trained, prompting the Bangladesh Ship Breakers Association (BSBA) to build a training facility.¹⁰⁴

Rule 17.2 requires BSTI-compliant PPE for all personnel. All operations/work need BSTI-standard PPE. Rule 17.3 specifies shipyard recycling safety instructions. Rule 17.13 requires ship recyclers to appoint a "Safety Officer" Safety Officer must oversee cutting operation. According to a national newspaper, even after national efforts, the effectiveness of 2011 SBRR has been hampered by implementation issues, and over a 4-year period, 53 workers were died and 78 were injured due to hazardous working conditions that persist to this day.¹⁰⁵

4.2.3 The Bangladesh Ship Recycling Act, 2018 (Act No. 08 of 2018):

Bangladesh is the world's leading shipbreaker, although it pollutes. The Bangladeshi Parliament just passed "the Bangladesh Ship Recycling Act, 2018" to adopt international shipbreaking guidelines.¹⁰⁶ To protect the marine environment, and ensure worker safety and security. Section 7 of the Act indicates that it is passed to give effect to the HKIC, 2009. The Act features many unique and standard provisions that have never existed in Bangladeshi ship recycling legislation.

In Chapter V, stakeholder demands are addressed. It includes worker health and safety, insurance, and environmental protection. The enacted Act addresses occupational safety and health in sections 18 to 20. Section 19 requires the Board to train workers. The government will create a training institute by 2023 to give workers theoretical and practical training. In reality training wasn't planned and workers were chosen at random, resulting in serious accidents and risks.¹⁰⁷ Section 20 the Act requires yard owners to provide life insurance for all workers and employees.

The 2018 Act is below international standards. The ILO has special criteria for ship recycling. Workplace safety and health issues must be addressed comprehensively and separately. According to a 2001 ILO report, concentrations of toxic substances should be kept below a certain limit. The Act does not explicitly address chemicals issue.

¹⁰⁴ Zarka, (n 49)

¹⁰⁵ Arun Bikash Dey, 'Life at Death Yard' (*The Daily Star*, 16 January 2016)

<<https://www.thedailystar.net/frontpage/life-death-yard-202612>> accessed 11 September 2022

¹⁰⁶ Rahman (n 94)

¹⁰⁷ Overview of Ship Breaking in Bangladesh (n 1)

Workers in shipbreaking industries must have (PPE) that meets international requirements. However, this issue is not addressed in the Act. Lack of first aid services in yards and nearby areas increases workers' fatality risk. The Act has no female-specific or helpful provisions. The Act doesn't mention the Wage Board, social aid, provident funds, child labor, etc. This ship recycling law overlooks workers' rights to establish and trade unions, which is concerning.

Section 37 of the Act states that a court may only hear a case based on a written complaint from a board or other authority. The Board is the ultimate arbitrator of any worker remedy. All yard criminal and labor problems must be tried by the Board. It curtailed the 2006 Labour Act's special remedy forum.

4.3 Remedies Under Tort Laws:

It's commonly assumed that Bangladesh had not application of tort law. This misunderstanding is in large part due to the lack of a tort law statute. Some criminal and civil laws implicitly cover tort law. Our Appellate Division and Supreme Court High Court Division have issued landmark decisions that have had a significant impact on the evolution of tort law in our jurisdiction.¹⁰⁸

Bangladesh Beverage Industries Limited v Rawshan Aktar and others¹⁰⁹ is a landmark case on tort damages. A newspaper reporter was killed by a wrong-way minitruck while crossing the road. Due to his negligence, the defendant driver was liable. So, negligence was the cause of action, which derives from tort law. The driver's fault was proven, hence HCD granted damages of Tk 3, 52, 97,000. Then it went into AD, where the decree was kept but the amount was changed to TK 1,714,7008.¹¹⁰

So, it is evident that Bangladesh's highest court recognized the tort of negligence.¹¹¹ However, under the tort of negligence, a defendant may be held liable to a plaintiff for committing a tort if the action was either intentional, as in the case of a crime, or unintentional but negligent, in that the defendant breached his duty of care to the plaintiff.¹¹² Also, duty of care is a tort law principle. When a person owes another a duty of care but breaches it, this is considered to as a tort. Each person has an obligation to use reasonable care to prevent injuring others or their

¹⁰⁸ Naima Haider 'Development of the Laws of Tortious Liability in Bangladesh' [(2022)] 32 196

¹⁰⁹ [2010] 39 CLC (HCD)

¹¹⁰ Naima Haider, (n 108)

¹¹¹ *ibid*

¹¹² 'Duty of Care/Intent or Negligence' (*Judicial Education Center*) <<http://jec.unm.edu/education/online-training/torts-tutorial/duty-of-care-intent-or-negligence>> accessed 15 September 2022

property.¹¹³ In the case of **Hamida Begum (on behalf of MD Khalil Mullah) v Maran (UK) Limited [2021]**¹¹⁴ The Court's decision (Lord Justice Coulson issued the leading judgment which was widely backed by Lord Justice Bean and Lord Justice Males) indicates that a shipping industry in England selling a vessel for dismantle in South Asia may owe a duty of care to shipbreaking workers in Bangladesh even if there are several third parties involved in the transaction. This judgement is given based on duty of care principle.¹¹⁵

The common understanding is that tort law is part of private law, which applies only when the disputing parties are private individuals.¹¹⁶ In cases where the defendant is a public official, tort suits can be brought under public law.¹¹⁷ In Bangladesh, both common law and civil law apply to private law torts. Tort claims under private law are heard in the civil courts and tribunals. On the other hand, constitutional tort is based on the combination of Article 44 and Article 102(1) of the Constitution. When a statutory authority violates part III of the Constitution right, a writ petition claiming compensation can be filed at the country's constitutional court.¹¹⁸

Therefore, if workers are hurt or killed as a result of their negligence or lack of care, shipyard owners and contractors may be held accountable under tort law. To get adequate compensation, shipyard workers can file a tort claim. In actual fact, someone is injured, they may receive short-term treatment, but workers who are suffering from long-term or chronic damage rarely receive any kind of treatment. Only a small sum of compensation is provided in terms of compensation.

Following all of the discussions in the earlier chapters, the study has reached its conclusion with some of the significant findings. The main conclusions from this research will be discussed in the next chapter. This research makes several suggestions to better protect the rights of shipyard workers based on what it found.

¹¹³ *ibid*

¹¹⁴ *Hamida Begum (on behalf of MD Khalil Mollah) v Maran (UK) Limited* [2021] EWCA Civ 326

¹¹⁵ *ibid*

¹¹⁶ Sadman Rizwan Apurbo 'Development of Tort Law in Bangladesh and Recent Case Decisions' (*Bangladesh Law Digest*, 23 May 2018) < <https://bdlawdigest.org/tort-law-in-bangladesh.html>>accessed 15 September 2022

¹¹⁷ *ibid*

¹¹⁸ *ibid*

Chapter 5: Conclusion

5.1 Findings of the Study:

- a) The rights of shipyard workers have always been protected by international law, but there are still lots of flaws in it. The government has passed laws to protect workers' rights. But Bangladeshi law does not meet the requirements of international law. Even though there are a lot of rules and regulations, the shipbuilding and breaking industries do not always comply with them.
- b) Despite new regulations and legislation, governance is poor, and law enforcement is on-existent. Corruption also makes it more difficult to enforce laws and regulations. In the ship-breaking industry, Bangladeshi government agencies are neither effective nor effective in enforcing labor and environmental laws
- c) Bangladesh has become an ideal place for the shipbreaking industry. even more so because the government doesn't seem to care about protecting the environment or worker rights.
- d) Shipyard workers in Bangladesh labor for long hours for low compensation without overtime, sick or annual leave. Bangladesh has no minimum wage and pays shipyard workers less.
- e) Shipyard contractors prefer minors because they're cheaper than adults. Shipbreaking yards are hazardous and harmful to children. However, it is still common to find children working in shipbreaking yards. If a child worker is injured, his family pays his medical bills.
- f) The workers' right to secure employment over the long term is violated. Safety and health aren't maintained. And any time they try to form or join a union to improve their working conditions, it jeopardizes their jobs.
- g) Shipyard owners can easily transfer many worker obligations to contractors and subcontractors due to temporary employment. In Bangladesh, shipbreaking yard owners and contractors have an advantage over labor. They don't care about workers' human rights because they can be replaced easily. Workers with long-term or chronic injuries are rarely treated. Compensation is minimal.

5.2 Recommendation:

- a. Bangladesh has certain rules to protect the shipping industry and assure worker safety, but they're not enough. No law specifically covers shipyard workers. The Labour Act does not define shipyard workers specifically. Shipyard workers aren't properly protected. Even though several Labour Act provisions protect workers' rights, there is a still grey area. However, the most important factor is that there is no enforcement of the law. Hence,

amending the laws is important to protect workers' rights. The government must be stricter in implementing such laws.

- b. The Ship Recycling Act and its rules (2012) must be amended to protect shipyard workers' rights. The Act doesn't uphold ILO shipbreaking norms. When amending, remember these requirements. Section 3 of the Act specifies that it is a supplemental statute. However, it has not specified any statute as the "mother law" to safeguard workers' rights. Section 19 of the Act needs more clarity on training and hiring. The Act does not address violations of occupational safety and health. The rule was adopted in 2012 before the Act. The Act and rules were therefore inconsistent. The 2012 rules governing injury benefits and OSH protection are not clear, and the 2018 Act refers to them when determining compensation. Social welfare mechanisms of the workers are not properly included in the Act which led the injured or died workers into a miserable life.
- c. Labour courts must be made more functional to compensate victims and their families for losses and injuries.
- d. Government departments, shipbreakers, NGOs, and international organizations may be able to address the problem. However, no initiative will be successful unless workers are included, especially if their right to organize trade unions and their right to collective bargaining are not protected.

5.3 Conclusion:

Shipyards are dangerous jobs with possibly fatal hazards. Shipyards are dangerous places to work because ships have sophisticated construction and there are several environmental, safety, and health issues. It is becoming increasingly common practice to take advantage of workers' lack of knowledge in order to deprive them of their rights. The health and safety of shipyard employees in Bangladesh must be improved, and they must be provided with their most fundamental workplace rights. Ship recycling is one of the world's most hazardous occupations, according to the ILO. Due to the industry's migration from industrialized, regulatory nations to those with poor enforcement and regulatory frameworks, international regulation was assured of human rights standards for occupational health and safety. Shipping industry workers have always been protected by international laws. Their rights are both directly and indirectly protected by the ILO conventions, UN treaties, and IMO conventions like HKIC, but these still have flaws. Despite the fact that Bangladeshi shipyard workers are protected by the country's constitution, the government has passed laws to uphold the workers' rights. However, the reality is that Bangladeshi law does not comply with the standards of international law. Even

though there are many laws and regulations, the shipbuilding and breaking sectors do not fully respect those rights. In reality, the situation is considerably worse. In the ship breaking industries of Bangladesh, workers are deprived of many kinds of rights. For instance, they are required to work in hazardous conditions without access to safety gear, job security, or a living salary. Every week, a worker dies in the yards, and one is injured each day. Burns and injuries occur frequently. There are no safety precautions in place for shipyard workers in risky situations. Even though they are hurt or burned in an accident, they do not receive adequate compensation. The Ministry of Labour and Employment is the primary government agency in charge of preserving labor rights and promoting labor welfare in ship-breaking activities, as well as enforcing the Bangladesh Labour Act. The responsible government authorities have completely failed to protect workers' rights in the ship-breaking businesses. Neither are government agencies effective in preventing the illegal export of hazardous ships from Bangladesh, nor are they particularly active in enforcing the necessary labor and environmental laws in the ship-breaking sector. To work in the global shipping recycling sector and enforce international law, there must be consistent legal protection.

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