

DISSERTATION ON

Ensuring the Rights of Online Platform Worker Law in Bangladesh

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Ensuring the Rights of Online Platform Worker Law in Bangladesh



Consent

The dissertation titled Ensuring the Rights of online platform worker law in Bangladesh Prepared by Nasrin Noor Mukta ID 2016-2-66-004 submitted to Nabila Farhin for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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Signature of the Supervisor

Date:

Declaration

I, Nasrin Noor Mukta, declare that the research has been composed solely by me, presented for the undergraduate program as LAW 406 (Supervised Dissertation) of the Department of LAW, East West University. The paper is mine and has not been submitted for any other degree or professional qualification and has not been copied from anywhere or from anyone's view.

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List of Abbreviations	
ILO	International Labor Organization
ICCPR	International Covenant on Economic, Social and Cultural Rights
UDHR	Universal Declaration of Human Rights
G20	The Group of Twenty (G20) is the premier forum for international economic cooperation.
SGA	Sale of Goods Act, 1930

Abstract

Countries in the developed world are becoming more protected about the rights of online platform workers but in developing countries like Bangladesh, any such legal basis to protect their rights is absent. According to the workers' law of Bangladesh, this right requires a proper legal ground as the main objective of the labor law of Bangladesh is to ensure rule of law, fundamental worker rights, equality, justice, etc. It is necessary to implement a law regarding digital worker rights in Bangladesh to protect the workforce of the digital sector. The purpose of this thesis is to examine if any kind of protection for online workers exists in Bangladesh currently and whether those are enough to legally protect them. The paper examines the importance of online platform workers' law in Bangladesh in line with Bangladesh's labor law. Also, to figure out the necessary steps that should be taken by Bangladesh to create the legal framework for the digital worker. Here, we have discussed the constitutional and labor law framework for the protection of worker rights, based on International Law and related articles, UDHR, ICCPR. This research has used data from secondary sources which are some laws, case law, relevant articles, newspaper articles, journals, websites, etc. In the end, the research has yielded several findings and recommendations to enhance the capacity of online platform worker law in a more competent and efficacious means.

Chapter -1

1.1 Introduction

In a developing country like Bangladesh, worker rights are always an important right in every aspect of our economy. The rights of digital workers have increased worldwide in recent times. Worker rights are a right for every individual without any discrimination. Countries in the developed world are becoming more concerned about the rights of digital workers but a developing country like Bangladesh there needs a strong legal basis to give those rights. The rights of digital workers are becoming an important area of discussion. The necessity of legal recognition of the rights of digital workers is increasing globally. The discussion about legal recognition is yet absent in Bangladesh at the institutional level. But questions are arising about unequal treatment, abuse of dignity, and legal punishments, especially in the context of digital workers' rights and protection. The first chapter of this paper will discuss the presupposition of the concept, and the second chapter was the narrative definition of workers and digital workers in the law framework. The discussion of the third chapter will focus on the status of worker rights in constitutional, and labor law in the aspect of international law rights. Moreover, the chapter will talk about existing discriminatory laws in international and Bangladesh. This chapter contains a discussion about how the constitutional framework protects these rights, in the aspect of International Law related to Articles, UDHR, and ICCPR. The fourth chapter will determine the impact of the digital workplace and the necessity of the digital worker rights-related law and the digital workplace's rising percentage of the digital labor market. In chapter five there will be a discussion about the research findings of the article. Moreover, a few research recommendations also will be included in this chapter.

1.2 Research Questions

In this paper, we wish to figure out,

Whether there is any law or protection for digital workers in Bangladesh?

1.3 Research Objective

- To find the scope of online worker rights is the law framework of Bangladesh
- To Find out the necessity to create law practices and other circumstances.

1.4 Methodology

This research has been analyzed with some laws, case law, relevant articles, newspaper articles, journals, and books. Used data of secondary sources are laws, cases, case laws, journals, articles, newspaper articles, etc. Information from journals has been used extensively through the number of references collected from newspapers and websites is limited. The approach was driven by “Qualitative Research Methodology”. The bibliography and all the citations were made as per OSCOLA Referencing Guide. The focus of the study is on the rights of online workers in Bangladesh. The process of findings is related to law and legal theories only.

1.5 Limitations

The research contains analysis on the ground of law and legal theories. It may not maintain regularity with social and religious values. It is a collective analysis between international law, statutory law, and The Constitution of Bangladesh. Secondary data has been included with the analysis, as it is a theoretical analysis regarding law and legal scopes. From the very beginning, the limitation of time was the major constraint. labor laws of Bangladesh are a vast topic to cover within the given time and it was not possible to go through all the relevant materials. For this reason, the knowledge of the author is specific to the dissertation topic. Regardless of all the limitations, given only limited access to academic instruments and the time, the current paper was done based on the scholarly articles, journals, organizational reports, international law, books, and newspapers available and accessible to the author.

1.6 Outline of the Chapters

This paper contains a total of six chapters. In the first chapter, the overview of the topic, the methodology followed to prepare the research, and its limitations have been discussed. The second chapter is focused on the discussion of the definition of traditional worker, online worker, and traditional workplace or online workplace in the perspective view of the law. The third chapter contains the nature and current condition of labor laws in the world. The fourth chapter explores and addresses the relation between labor laws and online workers la The fifth chapter is about the law. The fifth chapter along with analyzing the finding and suggests recommendations that need to address. In the end, the concluding chapter finishes the research with closing remarks.

Chapter-2 Concept of the Digital Worker

A worker is a person who acts work and gets things done and the worker who works at a specific occupation. nowadays there are two types of workers one is a traditional worker another is a digital workplace worker.

2.1 Worker Definition

The term “work” comes from the Old English word,” weorc” and the word meaning is doing something. A worker is a person who works under a contract of service or labor.

According to the ILO, a person in employment is defined as all those of working age who were engaged in any activity to produce things or offer services for pay or profit during a short reference period. ¹

According to the labor Act, 2006 in Bangladesh section 2(65) provide a definition of a worker as basically someone who works under a certain organization by following the rules of that organization. Some of them do skilled work while others can do manual work as well for a certain amount of remuneration for employment as well which comes with wages. some workers are freelance as well which means they can be hired for a specific job. They mostly are hired for manual labor and not for managerial or supervising positions. ²

Analysis of the case principal Sonali Bank and another vs. Chandon Kumar Nandi 1996) 48 DLR 330 case provide a general definition since the assistant cashier is not doing any managerial work or an administrative job the work falls under clerical periphery which means assistant cashier is a worker. ³After the Bangladeshi law and case fact, we saw the eight-core Conventions that constitute the basis of the 1998 Declaration are intended to apply to all persons who, as the Shorter Oxford English Dictionary has it, make, produce, or contrive goods or services. According to Oxford Dictionary, A worker is a person who is employed in a company or industry, especially somebody who does physical work rather than organizing things or managing people. So, in the discussion of international law and Bangladeshi law and facts, we found when the person doing any work to get paid for the physical and mental work, he will be called a worker. A worker is a person who works for Wages.

2.2 Definition of the Traditional Workplace

A traditional workspace is a physical working environment where workers work in a physical office. Those workplace buildings are owned by the company. In those workplaces, workers work on a schedule and continue the business operations. The traditional workspaces have many branches in several places. These physical offices have many departments where everything related to work occurs. Traditional offices set a working atmosphere because it always radiates professionalism. ⁴ In those places, workers get to interact with one another and permit physical collaboration which helps a set motivation for work. In the traditional workplace, all work happens physically like meetings, appointments, collaborations, and interactions between workers within the standard workspace. All workers including the business leaders use transport and attend their company building to meet and start the work. traditional works are often flexible for all inquiries

¹ insee.fr, 'Employment (according to the International Labour Organization (ILO) definition)' (28 January 2021) <<https://www.insee.fr/en/metadonnees/definition/c1159#:~:text=According%20to%20the%20International%20>> accessed 10 April 2022

² Barrister Mohammad Taqi Yasir and Barrister Anam Hossain, 'For Whom is the Labour Act 2006 applicable? The business standard' (09 January, 2020) <[https://www.tbsnews.net/opinion/whom-labour-act-2006-applicable#:~:text=The%20term%20"worker"%20has%20been,technical%2C%20trade%20promotional%20or%20clerical%20](https://www.tbsnews.net/opinion/whom-labour-act-2006-applicable#:~:text=The%20term%20)> accessed 10 April 2022

³ Sonali Bank and another vs. Chandon Kumar Nandi (1996) 48 DLR 330

⁴ 'Traditional work spaces vs remote work' (11 Aug 2021) <<https://www.termscompared.com/traditional-work-spaces-vs-remote-work/#:~:text=A%20traditional%20workspace%20is%20a,remotely%20in%20th.>> accessed 15 April 2022

about the task and when they need more inquiry, they require meeting other colleagues or leaders. The traditional workspace perfectly set the mood for workers to focus on the work. ⁵

2.3 Definition of Digital Worker

When a person uses any tools and technologies to deliver his business are known as a digital worker. The digital worker is a type of worker who use digital technology to produce goods and gets wages. A digital worker represented traditional job activities as a virtual platform by use of digital technology. ⁶

A "digital worker" is used to refer to a human employee with digital abilities, but the market has lately defined it as a category of software robots that are trained to do certain activities or procedures in collaboration with their human co-workers. ⁷ The digital worker is defined as software-based labor that can autonomously perform relevant sections of complicated, all processes of a variety of talents. They use intellectual skills such as machine learning, computer vision, and natural language processing to carry out a set of activities in a workflow. To complete an Order to Cash process, a digital accounts payable worker, a digital worker may be able to execute elements of three conventional job responsibilities customer service representative, billing agent, and cash applicator or dispute resolution autonomously. Digital workers have primarily been accepted through digital transformation efforts, allowing organizations to reallocate their personnel to more important duties since they boost their employees' capacity. ⁸

A digital worker is an automated team member who has been trained to carry out a business operation in the same way that a human employee would, but quicker and with fewer errors. In the future, all teams will have digital workers alongside humans. Each digital worker can control one or more processes or tasks. It may also be taught to prioritize work, manage errors, and learn by doing. A digital employee can be developed any tools or even on-site. ⁹

⁵ *ibid.*

⁶ *ibid.*

⁷ 'Digital Worker main concepts'(3 may 2021)< <https://www.ibm.com/docs/en/cloud-paks/cp-biz-automation/19.0.x?topic=worker-digital-main-concepts>> > accessed 15 April 2022

⁸ *ibid.*

⁹ Mckinsey, 'A FUTURE THAT WORKS: AUTOMATION, EMPLOYMENT, AND PRODUCTIVITY'(1 JANUARY 2017)< <https://www.mckinsey.com/~media/mckinsey/f>> accessed 15 April 2022

According to analysis the workplace is being changed by digital employees. The adoption of a digital workforce is quick and cheap, and no change to current information systems is necessary. Transformation promotes a perfect and regular work method that minimizes human mistakes

2.4 Definition of Digital Workplace

The digital workplace is a technology-based workplace. Digital workplaces share work with the people with the help of digital technology. It is a modern way to get a job. The digital workplace created connections between the employer to the worker using digital technology. The Digital workplace is represented by the collection of technologies online platforms, and tools.¹⁰ Most of the workers are young, students and newcomers. The digital worker is someone who performs temporary or freelance work for wages. Ridesharing, food delivery, page manager, consultants, photographers. Gartner, leading research, and advisory company provide that the digital workplace is a new and more efficient way of working. This increases the busyness and agility of the staff. As a result, the system relies heavily on consumer-oriented styles and technologies.

A digital workplace is a digitized form of a typical, in-person office setting, in which many aspects of work and productivity are handled by a combination of digital tools, data storage, and other technologies. Any number of devices, software, and hardware may be integrated into digital workplace systems. Email and instant messaging, virtual meeting tools, and cloud systems like data storage. Several devices, software, and hardware may be integrated into digital workplace systems. Email and instant messaging, virtual meeting tools, and cloud systems like data storage. and shared social platforms or business applications can all be part of a digital workplace. With a digital platform, an employed can successfully work in the workplace and he has the capability to increase adaptability, freedom, creativity, and income through the technology. The componence digital workplace is technology, data, and people.¹¹

¹⁰ IBM Cloud Pak for Business Automation, 'Digital Worker main concepts'(3 may 2021)< <https://www.ibm.com/docs/en/cloud-paks/cp-biz-automation/19.0.x?topic=worker-digital-main-concepts>> accessed 18 April 2022

¹¹ 'WHAT IS A DIGITAL WORKPLACE?' (1 JANUARY 2022)< <https://www.hpe.com/us/en/what-is/digital-workplace.html>> accessed 18 April 2022

In Last 20 to 30 years, new and interesting technologies have endless possibilities for a workplace more flexible.¹² The Internet and the multiplicity of tools have emerged because of its shared understanding of what determines where we work. Thousands of kilometers apart, communication may happen in a second by digital tools. There has never been a more direct link between people and production. In today's always-on, connected society, an enormous amount of data has been released. The Internet allows us to produce and gather massive volumes of data. It relates to cell phones to artificial intelligence and machine learning. The workplace requires quick and dependable methods for analyzing and valuing data.¹³ The growing goals and ideals of a young and upcoming workforce are also driving the digital workplace. It provides new generations more flexibility in their work choices, leading to a greater acceptance of work arrangements. when employees can work from their homes or other off-site locations on a predetermined or as-needed basis. All Workers can get anything they need from a cloud-based server or application, and they can easily communicate with their co-workers.¹⁴

Digital workplace models, in general, consist of any combination of five essential components: communication, security, storage, analytics, and management. A digital workplace doesn't mean having all the components, simply the ones you need to get through a given workday. Communication is essential for every digital workplace's success. Engaging and working in real or near-real time from one or several places. Additional methods should also be included in this component. This workplace does not need immediate action, letting people reply or update on their own timetable. A digital workplace must safeguard itself against hackers and other destructive threats. Security can be imposed by government compliance or laws, or it can be left to the discretion and needs of the organization. Providing good storage premises on physical servers or on the web, to manage expected and unexpected pressures are necessary. When collecting and pouring over massive amounts of data is a mission-critical work function, having a strong and efficient digital backbone can increase agility, deepen innovation, and sharpen a competitive edge. A digital work environment demands having a system to track every project, especially when a coordinating employee is from multiple locations.¹⁵

¹²oecd.org, ' 21st CENTURY TECHNOLOGIES : Promises and Perils of a Dynamic Future' (JUNE 2021) < <https://www.oecd.org/futures/35391210.pdf>> accessed 18 April 2022.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ IBM Cloud Pak for Business Automation(n 10). accessed 18 April 2022

In other respects, a digital workplace provides many opportunities for businesses, reduces traditional workplace limits, and modifies how and where we work.

2.5 Digital Workers and Traditional Workers are the Same Workers

The nature of a digital worker and a traditional worker are similar. A typical worker's employer has the right and authority to control the workers to finish the job. On the other hand, owners of digital workers exercise control and authority over their workers in the same way. One of the simplest ways to compare the working relationships of traditional and digital workers is to use the same.¹⁶ Each worker gets benefits and wages from the employer for the work. They continued working till their mission was accomplished. Sometimes they signed written contracts with their owners and employers. The agreement defining the parameters of work and payment is provided by the type of contract. Something that both workers provide is a working outline and a payment amount. The obligations of digital workers are sometimes the same as those of traditional workers. They supply it by issuing a digital platform when it comes to paying taxes or deducting any rewards from digital work. Sometimes they pay taxes and provide documentation at the end of the year for certain items. Using software and technologies they make it simple.¹⁷

Digital workers and traditional workers worked as part of a business. Both workers have managerial abilities to make a profit. To ensure the worker's ability both Owners require skills and initiative. Owners occasionally provide facilities and equipment to both workers. The nature and degree of control over a traditional worker and a digital worker are the same.

¹⁶ Traditional work spaces vs remote work (n 4).

¹⁷ Servcorp, 'Flexible Workspace vs Traditional Office' (19 March 2021) accessed 18 April 2022

Chapter-3 worker Right under the International Law and Constitutional Framework of Bangladesh

3.1 Recognition of worker Rights in International law

International Labor Organization (ILO) provides worker rights. This ILO proclaims the fundamental principles and rights of all member countries and all kinds of workers.¹⁸ These organization terms and conditions are integrated and developed in the form of certain rights and obligations under the original Agreements within and outside the Organization. This organization is obligated from its membership to respect, promote, and fulfill the principles relating to fundamental rights which are the essence of those Conventions faithfully and in accordance with the Constitution. The principle of fundamental rights is the basis of those Agreements, namely Freedom of association and the effective recognition of the right to collective bargaining.¹⁹

In this organization convention (No. 26) 1928 provided Fixing Machinery of Minimum Wage. Each member of the International Labor Organization who ratifies the C26 Convention agrees to build or maintain the technology that allows minimum wage rates to be set for employees working in certain crafts or occupations. This Convention will have the freedom to determine the minimum wages that will be paid to all types of workers.²⁰ On the other hand, Article 2, Article 3, and Article 4 of the Convention of 1930 (No. 30) are about fixing Hours of Work (Commerce and Offices) in this convention establish working hours for all types of workers.²¹ Convention (C132) (Revised) provides - Holidays with Pay. According to the Article, every person to whom this Convention applies is entitled to an annual paid vacation of a specified minimum wage.²² under the 1951 Convention (No. 100) provide Equal Remuneration is guaranteed. The term equal

¹⁸ International Labor Organization, 'ILO Declaration on Fundamental Principles and Rights at Work' (15 June 2010) < <https://www.ilo.org/declaration/lang--en/index.htm> > accessed 20 April 2022

¹⁹ Ibid.

²⁰ International Labor Organization, 'C026 - Minimum Wage-Fixing Machinery Convention, 1928(No.26)' <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C026> accessed 20 April 2022

²¹ International Labor Organization, 'C030 - Hours of Work (Commerce and Offices) Convention,1930(No.30)' <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C030> accessed 20 April 2022

²² International Labor Organization, 'C132 - Holidays with Pay Convention (Revised), 1970 (No. 132)' <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C132> accessed 20 April 2022

remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex. Remuneration includes the ordinary, basic, or minimum wage or salary, as well as any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment.²³ The Right to Organize and Collective Bargaining are guaranteed provided under the 1949 Convention (No. 98).²⁴ According to this Convention, the Workers should be adequately protected against acts of anti-union discrimination in their employment. This protection will be more pronounced in the case of calculated acts. The official wording of the Forced Labour Convention is found in Convention, 1930 (No. 29).²⁵ The term forced or compelled labor shall imply all employment or service that is demanded from any person under threat of punishment and for which the said person has not volunteered himself willingly, according to Article 2 of this Convention. As a Convention, 1994 (No. 175) provides Interim Work. At this meeting Article 1 sets out the objectives of the part-time job. A temporary employee means a person whose employee's normal working hours are less than those employed on a full-time basis. A temporary employee has the same type of employment relationship and performs the same type of job or the same job.²⁶

On the other hand, Agreement C183 provide that in the workplace it will be taken to ensure maternity protection for women worker.²⁷ employees and C175 Convention also the types of Part-Time work, termination of employment, annual leave and pay for public holidays and sick leave are determined in proportion to working hours or salaries.²⁸

²³ International Labor Organization, 'C100 - Equal Remuneration Convention, 1951 (No. 100)' <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C100> accessed 20 April 2022

²⁴ International Labor Organization, 'C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)' <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098> accessed 20 April 2022

²⁵ International Labor Organization, 'C029 - Forced Labour Convention, 1930 (No. 29)' <https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C029#:~:text=The%20original%20text%20of%20the,and%20Articles%203%20to%2024.>> accessed 20 April 2022

²⁶ International Labor Organization, 'C175 - Part-Time Work Convention, 1994 (No. 175)' <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C175> accessed 20 April 2022

²⁷ International Labor Organization, 'C183 - Maternity Protection Convention, 2000 (No. 183)' <https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C183> accessed 20 April 2022

²⁸ International Labor Organization, 'C175 - Part-Time Work Convention, 1994 (No. 175)' <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C175> accessed 20 April 2022

The article, 7 of UDHR. Stated that Everyone is equal in the eyes of the law and is entitled to equal protection under the law without discrimination. Everyone has the right to equal protection against any discrimination that violates this Proclamation, and any encouragement of discrimination.²⁹ Article 23, UDHR secured that everyone has the right to work, to choose their own job, to work under inequitable and advantageous conditions, and to be protected from unemployment. Everyone has the right to equal compensation for equal effort, regardless of race or gender, and most importantly, Article 24 provides Everyone the right to rest and enjoyment, which includes a fair restriction on working hours and holiday pay.³⁰

ICESCR Article 6 protects the right to work in this article explains everyone's right to the ability to earn a livelihood via labor that he or she chooses or accepts freely and will take necessary measures to protect this right.³¹ Also, Article 7 ensures the right of enjoying favorable working conditions, compensation, minimum Fair wages, and equal pay for all workers.

Also, it provides equal work or equal value, a safe and healthy working condition, Equal opportunity for everyone to be promoted in their employment to an appropriate higher level, subject to no considerations other than seniority and competence, Rest, leisure, and periodically paid vacations, as well as remuneration for public holidays.³² The mentioned ILO, UDHR along with ICESCR includes the legal protection and the right of all kinds of the worker.

3.2 Constitutional Framework of Bangladesh Protecting Worker Rights

Our state constitution gives some fundamental rights to the workers. Some fundamental principles of the policy provided in the Constitution relating to workers are to be found in Article 14. This article provides that it provides requires the State to emancipate peasants and workers from all forms of exploitation. Also, Article 15 is providing that it is holding the state responsible to ensure

²⁹ United Nations, 'Universal Declaration of Human Rights'(10 December 1948)< <https://www.un.org/en/about-us/universal-declaration-of-human-rights#:~:text=Article%2023,equal%20pay%20for%20equal%20work.>> accessed 21 April 2022

³⁰ Ibid

³¹ United Nations, 'International Covenant on Economic, Social and Cultural Rights'(3 January 1976)< <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 21 April 2022

³² Ibid

the right to work which is the right guaranteed employment of a reasonable wage in regards to having the quality and quantity of work with reasonable rest recreation, and leisure.³³ Now we saw Article 20 that the article provides for work as a right and duty.³⁴ A job is a right and a matter of dignity for every able-bodied citizen. The State will endeavor to create an environment in which people will not be able to enjoy the wages they have not earned. However, Article 20 (1) provides that the work is a right and requires that everyone be paid in full for the performance of his or her individual duties and responsibilities. In addition, the basic rights guaranteed in Chapter III, especially concerning workers' rights, are also safeguarded. Article 29 of the constitution provides for guarantees of equal opportunity for all citizens in the matter of employment or position in the service of the republic. The term "service of the Republic" means any service, post office, or office, whether in the public or a military capacity, in relation to the government of Bangladesh. Equality of opportunity means equality between members of the same working class and not equality between different categories.³⁵ In accordance with Article 27 which is in the constitution also states that there will be equality Before equal protection which is provided by the law. No discrimination will be inflicted on the granting of rights or the imposition of debt. There will be no special rights due to birth, creed, race, sex, or any other category of person.³⁶ As Article 31 deals with the protection of the law which is to be enjoyed by the citizens and people of Bangladesh. The word according to the law is like the American concept of life, liberty, and property as defined by the Constitution.³⁷ In this constitution Article 38 provide guarantees and the right to freedom of association and to form unions for the protection of his interests. Every citizen shall have the right to form and join trade unions to protect his interests. Other hand Article 40 provides that every citizen has the right to engage in any legal activity or activity and to practice any trade or activity lawfully. Every citizen has such qualifications, if any, in respect

³³ LAW HELP BD, 'Fundamental Rights in the Constitution of Bangladesh'(12 FEBRUARY 2017)< <https://lawhelpbd.com/constitution/fundamental-rights-constitution-bangladesh/#:~:text=Article%2031%20deals%20with%20the%20protection%20of%20law,accordance%20with%20law%20is%20akin%20to%20American%20concept>> accessed 10 April 2022

³⁴ Ibid

³⁵ Ibid

³⁶ in o Salish Kendra (ASK), Ain o Salish Kendra (ASK)'Workers' Rights'< [https://www.askbd.org/ask/workers-rights/#:~:text=Constitutional%20Guarantees&text=Article%2020\(1\)%2C%20which,each%20according%20to%20his%20work.](https://www.askbd.org/ask/workers-rights/#:~:text=Constitutional%20Guarantees&text=Article%2020(1)%2C%20which,each%20according%20to%20his%20work.)> accessed 10 April 2022

³⁷ Ibid

of his profession, occupation, trade, or business as may be determined by law. ³⁸3.3 Existing Worker Law in Bangladesh

3.3 Existing Worker Law in Bangladesh

The labor law of Bangladesh clearly describes all things related to labor rights and the workforce including wage and salary, termination, redressing, work environment, female workers, recruitment, unionization, child labor, and so on. In this Act, employees are allowed to make unions establish and ensure their rights. Section 100 of the labor Act 2006 provides working hours, leisure, holidays, and leave. An adult worker shall not work or be caused to work for more than eight hours a day. ³⁹ Also, in this act section -108 provide the daily and weekly basis of working hours along with the overtime hours and their payment. And then Section- 116 provides all workers are entitled to sick leave with full wages for 14 days. After that under section -125 provide there will be no deduction from the wages except for the reasons mentioned in the Labor Act.

This act under section -195 provides some rights to the employee against any kinds of discrimination, any employment, promotion, condition of employment, or working condition. The provisions regarding safety in the eyes of the workers provide Under Section - 75 of the labor act. ⁴⁰ This labor act 2006 talks about employee safety, health, and resolving any kind of disputes and unfairness also any employee can demand his right if hampered before the Labour court. In our country, the 2006 Labor Act lists the daily and weekly basis of working hours with the overtime hours and their payment. as per section 100 of the labor Act, the daily work limit is 8- hours but it may not exceed 10-hour a day subject to the satisfaction of section 108. ⁴¹ AS Under Section 116 of the Labor Act, 2006 No such leave shall be allowed unless a registered medical practitioner is appointed by the employer or unless such medical practitioner is appointed by the employer. The worker gets sick leave when they need sick leave for cure or care. In this section, workers are entitled to sick leave with full wages. This act provides the Termination and Discharge right of the worker. There needs a valid reason from discharged a service and it will be approved by authorities.

³⁸ Ibid

³⁹ Ibid

⁴⁰ LawTeacher, 'The Labor Rights in Bangladesh'(29th May 2019)< <https://www.lawteacher.net/free-law-essays/employment-law/the-labor-rights-in-bangladesh-employment-law-essay.php>> accessed 11 April 2022

⁴¹ Ibid

The termination will be by the notice for Permanent Workers. The Labor Act gives Maternity Benefit rights as almost all of the provisions of the Act describe maternity benefit as the sum of money payable to a woman under Chapter Iv Section 45(1), Section 45(2), Section 45(3), and Section 46 of the Labor Act.⁴² According to Annalise the international law, constitutional law, and statutory law we saw that a. Worker Can get all kinds of rights from that law. This shows that a worker can get all kinds of rights, benefits, and compensation from those sectors of law.

Chapter 4- Impact of a Digital Worker

To discuss the legal right of traditional workers we saw that the law-making authorities or legal bodies make some laws regarding the issue of traditional workers and give some rights to them. All those laws are determined with the intention of human rights. Bangladesh and other countries follow international law. In our country establishing the subject right of workers in our constitution gives them protection by the statutory law. But a digital worker cannot get protection by that law. So, the binding effects of digital worker rights will be a subject matter of three legal sources - International law, constitutional law & statutory Law. Nowadays digital workplace is a very popular method and modern platform. It is created an easy and flexible way to find a job for a worker. Many young students and women get a job through this platform. This platform creates an effective power for workers. It is an easy way to get a job to the worker skill and quality by using digital technology. It gives the workers flexibility to maintain their work and social life.

4.1 The Rise of The Digital labor Market

Over the last decade, investment money has been key to the development of digital platforms, especially digital labor platforms. Even though some of them have a big technological business. A digital labor platform has kept rising and increasing businesses. The worldwide distribution of digital workforce platform development is very unequal, with 96 percent of investments placed in Asia.⁴³

⁴² Ibid

⁴³ By Susan Lund, Anu Madgavkar, James Manyika, Sven Smit, Kweilin Ellingrud, and Olivia Robinson, 'The future of work after COVID-19'(18 February 2021)< <https://www.mckinsey.com/featured-insights/future-of-work/the-future-of-work-after-covid-19>> accessed 12 April 2022

In the G20 countries, over the period of ten years, the number of online-based platforms went up nearly 6 times. In 2010, there were around 120 online-based platforms including delivery services, online-offline hybrid platforms, web-based platforms, and transportation services. In 2020, The number of platforms is Over 600. ⁴⁴In the previous ten years, the number of digital labor platforms has expanded over the world. In 2021, this will account for 79 percent of all platforms in use throughout the world. ⁴⁵

Since 2015, the ILO has been studying digital labor platforms with a view to understanding the implications of this new form of work organization on workers and employment in general. ⁴⁶

4.2 Digital Workplace in the Pandemic Situation

Prior to the pandemic, the digital work sector was growing. During the pandemic due to worldwide lay off and social distancing, the sector got a boost. Since the pandemic hit, globally digital sectors' average product/ service share has gone up significantly. From June 2017 to December 2019, the growth of the average share of products/ services that are partially or fully digitized was making a steady but slow leap upward, from 29 to 35 percent. But in 2020, after covid-19 emerged in the scene of the global economy, within half a year the average share has gone up by 20 percent, from 35 to 55 percent. ⁴⁷

Similarly, there has been a new trend of higher customer interactions that are digitized. Back in June 2017 global average share of customer interactions was only 20 percent. It came up to 36 percent before covid. However, within the first 6 months of 2020, the average share of customer interaction in digital platforms went up to 58 percent. ⁴⁸

Prior to the pandemic, the most significant job disruptions were caused by new technology and expanding trade ties. For the first time, the pandemic has enhanced the relevance of the physical

⁴⁴ Paper prepared for the Employment Working Group under Italian G20 Presidency (2021), ' Digital platforms and the world of work in G20 countries: Status and Policy Action' (June 2021)< https://ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms_814> accessed 12 April 2022

⁴⁵ The future of work after COVID-19 (n 43)

⁴⁶ International Labour Organization, ' Digital labour platforms'< <https://www.ilo.org/global/topics/non-standard-employment/crowd-work/lang--en/index.htm>> accessed 12 April 2022

⁴⁷ The future of work after COVID-19 (n 43)

⁴⁸ The future of work after COVID-19 (n 43)

dimension of labor. We create a unique approach to assess the closeness necessary in more than 800 jobs in this study by categorizing them into 10 work zones based on their proximity to coworkers and clients, the of interpersonal contacts involved, and whether they are on-site or indoors. Traditional sector designations provide a different perspective on work. For example, only caregiving occupations involving close connections with patients, such as doctors and nurses, are included in our medical care arena. Administrative workers in hospitals and medical offices work in a computer-based office environment, where more work may be done remotely. Work venues with higher physical closeness ratings are more likely to be unsettled in the long run, yet proximity isn't the sole factor.

Most leisure facilities were forced to close in 2020.⁴⁹ In the long run, the transition to remote work and the resulting reduction in business. Offices of all sizes, as well as administrative workplaces in hospitals, courts, and industries, are all part of the computer-based office work arena. Working in this field only necessitates a moderate amount of physical proximity to people and a moderate amount of interpersonal contact, this is the most important sector in advanced nations, employing around one-third of the workforce. This category encompasses nearly all conceivable remote employment. Construction sites, farms, residential and commercial grounds, and other outside places all fall under the category of outdoor production and upkeep. pandemic had limited influence because employment in this sector necessitates close closeness and little contact with others, as well as taking place entirely outside. The epidemic has ushered in the new acceptability of virtual meetings and other parts of E-commerce and other forms of virtual business are exploding.

During the pandemic, many customers found the ease of e-commerce and other internet activities. The share of e-commerce in 2020 will be two to five times higher than it was before the pandemic.

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⁴⁹ The future of work after COVID-19 (n 43)

⁵⁰ The future of work after COVID-19 (n 43)

4.3 Why Establishing Digital Worker Rights are Necessary for Bangladesh?

The recognized sources of law Are- the Constitution, Normative theories of law, Parliament, public demand, and the demand of time. The demand for time is one of the instruments of law. It is important to establish or discover a right. The observation seems truer if we consider human rights in about. Digital labor platforms are becoming increasingly popular worldwide, including in Bangladesh. It is a cutting-edge method of capturing employment and organizations using digital technologies and internet platforms. As per the Crunchbase database, it has grown at an increasing rate over the last 10 years, from at least 142 in 2010 to over 777 IN 2020.⁵¹ These platforms are web-based, with workers performing activities remotely like freelance, micro-task services, and competitive programming Since digital labor platforms contribute to our economy, no special regulations or legislation exist to ensure the welfare and protection of platform workers. Bangladesh has essentially recognized labors, including as Digital commerce operational guideline 2021 in Bangladesh. the Ministry of Commerce announced Digital Commerce Operation Guidelines, 2021, as a successor to the National Digital Commerce Policy, 2018.⁵² This policy aims to ensure and preserve accountability and openness on the internet, web, and eCommerce industries. Additional significant aspects included: supporting the business's rights, A legislative framework that a lot of useful things in digital trade, creating job opportunities, and creating the best environment that supports evolving technology companies. This refers to all web-based, internet, or digital companies operating in the country that operate in a similar manner.

Personal profiles and other features of social media platforms such as Facebook, WhatsApp, and Instagram are being used to start online companies. Individual traders, for example, use Facebook groups and pages to display their items in the hopes of selling to group members or followers. Furthermore, in comparison to individual profiles or any other online business platform, Facebook Pages are gaining a lot of traction thanks to innovative features that help consumers and sellers locate each other.⁵³ This rising popularity can sometimes be detrimental to the interests of

⁵¹ NILS BANGLADESH, 'Digital Labour Platform for Workers and the Necessity of Regulations in Bangladesh (A Socio-legal analysis)' (23 NOVEMBER 2021) < <https://nilsbangladesh.org/digital-labour-platform-for-workers-and-the-necessity-of-regulations-in-bangladesh-a-socio-legal-analysis/> > accessed 14 April 2022

⁵² Hypedhaka, 'DIGITAL COMMERCE OPERATIONAL GUIDELINE 2021 IN BANGLADESH' < <https://hypedhaka.com/news/digital-commerce-operational-guideline-2021-bangladesh/> > accessed 14 April 2022

⁵³ *ibid.*

consumers. When it comes to creating a page on Facebook, owners are not required to submit as much information as would be necessary to determine their true identities. Ambiguity in identity increases the danger of fraud, deception, and consumer rights violations. Sellers who only want to borrow money from banks are solely concerned with getting a trade license. Most internet dealers are uninterested in obtaining an electronic business identity number (e-BIN) or renewing a commercial license and hence remain unnoticed by tax authorities. Those trying to run a legal internet business, on the other hand, experienced challenges because of fraudulent orders and edited or eye-attacking reviews from anonymous individuals. When it comes to cash on delivery, deliverymen frequently have difficulty identifying customers. Buyers are often unable to be contacted because of inaccurate information or an out-of-service phone number. Additional fees for return and failure delivery are borne by the vendor. As a result, controlling the entire e-commerce system and providing a legal structure to protect both parties' interests is critical.⁵⁴

An offline contract element [an offer, acceptance, and consideration] are identical to those of an online marketing contract. However, in Bangladesh, such internet transactions are not recognized as contracts for the sale of commodities under the current legal system. For example, the Sale of Goods Act, 1930 (SGA, 1930) is in force in the country and regulates the legal arena of sale contracts. The law by its nature is backdated, mostly superseded by other special laws, no amendment so far has been taken to make it fit for the modern era. Paradoxically, the law is completely silent on online offers or descriptions or samples of a product or its similar acceptance.

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It is inevitable that the digital products and service sector has the potential to be an industry that contributes to the mainstream economy and is a major source of revenue and employment in the coming days. Seeing the growth of the sector and the absence of any institutional-legal framework, it should be the priority work to focus on. To sustain the growth of the sector further, it is very important to provide protection, rights, and benefits to the workforce of the sector.

⁵⁴ NILS BANGLADESH,' Digital Labour Platform for Workers and the Necessity of Regulations in Bangladesh (n 51)

⁵⁵ Ehsanul Haque Jasim, 'Legal framework for e-commerce needed' Bangladesh post (20 Sep 2021)

Chapter- 5 Findings, Recommendations with Justifications, and Conclusion

5.1 Findings of the Research

The primary purpose of the research was to find out the legal scope of establishing digital worker rights in Bangladesh. International Law and directions were relevant to these discussions for this purpose. The findings based on the international activities of the ILO and related organs and activist movements are clear that digital worker right is a necessary worker right and must be implemented.

The situation is much more necessary in the context of Bangladesh. The ugly truth is there is a lack of statutory provisions to protect the right of digital workers, but the existing law framework of Bangladesh is still capable of protecting the rights of digital workers. In Our existing labor law Earnings, working hours, payment and bonus, Workplace regularity, Occupational health, and safety should be amended for the digital workers.

The positive scope is the constitutional framework of Bangladesh. The constitution is fully capable of adopting the mentioned right and maintains uniformity of the international framework of the law. Although there is a lack of existence of judicial history related to this provision, the practice of adopting international or foreign law has been established. Thus, the constitutional framework and opportunity to enact law are still open and thus the opportunities of establishing the legal rights of digital workers are possible.

5.2 Recommendations with Justifications

These goals are best realized among involved people, including digital labor platforms, platform workers, and their authorities, as well as governments. To ensure that digital labor platforms continue to change in a way that income levels to inclusive growth, a joint effort across many international forums and organizations will be essential. Domestic laws implementing fundamental principles and rights at work, as well as other key legal provisions regarding wages, working time, and social security, should apply to all workers, including those on digital labor platforms, as part of such a regulatory communication and teamwork process. This process could

contribute to a greater understanding and a more successful and consistent method at the business, national, and international levels with the proper engagement and preparation, with the goal of:

- Ensuring that the digital workforce gets a worker contract with the job and benefit details. Having a contract gives a worker right to fight legally if any dispute occurs over his or her employment and gives him/her a base on which he/ she can seek his/ her rights if those are not met.
- Ensuring the working hour and overtime standards. Fixing a certain number of hours to work in a day. Given the nature of the digital sector, the work hours can be floating. The payment method can be based on an hourly basis. That will ensure fair pay for the workers, and it will not deprive a worker of his effort made in extra hours.
- Ensuring wage protection, fair payments, and bonus protection. There must be needed fixed-wage protection, and fair payment protection based on per working hour.
- Ensuring transparency in ratings or rankings of workers and businesses using digital platforms, such as online web-based, location-based, and e-commerce platforms.
- Ensuring the adequate social security benefits, occupational safety, and health laws apply to digital worker platforms and the existing labor act should be amended for the digital workforce.
- Ensuring fair discharge processes and the arrangements of clear terms and conditions for workers and businesses, including as reflected in worker and consumer laws. Also forming a court of jurisdiction for digital platform workers so they can access the courts of the jurisdiction when they need.

5.3 Conclusion

In Bangladesh, many people do their job by using digital platforms. Digital workplaces contribute to our economy. It created unpredictable opportunities for workers and businesses. Also, it is decent work and fair competition in the global market. But there are no specific laws and regulations for the workers. For this reason, some employers should take unwarranted advantage of their position. They are reducing the salaries of workers. There was no proper salary method for the work which is given to the workers. They discharged the worker from the work without any proper reason. The worker cannot get any compensation for the loss. As a result, the digital

platform method is hampering. Digital workplace workers lose their interest in doing the job. So, it's a huge loss for our economy. In the current situation, the Digital workplace needs some rules, regulations, policies, specifying working hours, Compensation police, and other condition. There are no specific rules and conditions for taking time off or receiving compensation in the event of an injury or other similar issue. If there are no suitable regulations in place for workers, they will be forced to rely on the employer's forgiveness. If the government established the law, then the worker gets bargaining power and can demand their rights from the employer. In the absence of specific laws and legislation, the employer takes advantage of the worker.so, there should be formed proper rules and laws to give Justice and protect their right in the Digital workplace.

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