

A Human Rights-based Approach to Health: The Case of a Garment Manufacturing Building Collapse in Bangladesh

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[**Abstract:** A Human rights-based approach to health has both philosophical and legal foundations. However, many scholars criticize this approach for its broadness and vagueness. This paper proposes a human rights-based approach to health in regard to the Bangladeshi ready-made garment manufacturing sector. In April 2013, a garment-manufacturing building named Rana Plaza in Dhaka, near the capital of Bangladesh, collapsed causing more than 1,100 garments workers' death and disabling thousands more. Through the analysis of the Rana Plaza case, this paper argues that health policies for garment workers in Bangladesh's RMG sector must recognize human rights as the underlying value. In this paper, we adopt Leslie London's human rights-based approach that analyzes the following three aspects: (1) the indivisibility of civil and political rights, and socio-economic rights; (2) active agency by those vulnerable to human rights violations; and (3) the powerful normative role of human rights in establishing accountability for protections and freedoms. The human rights approach that is espoused in this paper not only acknowledges the importance of a safe working environment but also explains the nonmaterial aspects of health such as the socio-economic conditions of the workers and their political rights.]

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Introduction

This paper argues for a human rights-based approach to the health policies for workers in the Bangladeshi ready-made garment (RMG) sector. In April 2013, a garment-manufacturing building named Rana Plaza in Dhaka, the capital of Bangladesh, collapsed causing more than 1,100 garments workers' death and disabling thousands more (Halder, 2015; Ormiston, 2013). The Rana Plaza tragedy not only shocked the world but also urged us to re-think the health and safety conditions of garment factories in Bangladesh. Furthermore, the accident triggered discussions, among scholars and stakeholders, of the corporate responsibilities of the companies such as Loblaw, Walmart, and Joe-Fresh in providing a safe working environment in low-income countries.

This accident represents only the tip of the iceberg of workers' poor health conditions in the ready-made garment (RMG) sector of Bangladesh. The Rana Plaza incident is not merely an industrial accident, but rather, a product of a health hazard enhanced by neglected human rights conditions in the workplace. Currently, in the conversation of workers' health, issues such as industrial hygiene, physical infrastructure, building and fire safety, risk assessment, disease prevention and safeguards, workplace environment, and workplace safety are considered significant (Baddrudoza, 2002). While these represent some important components of workers' health, it is difficult to comprehend the intensity of their health issues by only looking at the physical environment in which they work. In this paper, we adopt Leslie London's (2008) human rights-based approach that analyzes the following three aspects: "(1) the indivisibility of civil and political rights, and socio-economic rights; (2) active agency by those vulnerable to human rights violations; and (3) the powerful normative role of human rights in establishing accountability for protections and freedoms" (p. 65). Through an analysis of the Rana Plaza tragedy, this paper argues that guidelines and policies regarding workers' health in Bangladesh's RMG sector must recognize human rights as the underlying value.

Human rights-based approaches are often criticized for the difficulties in operationalizing the rights, and the vagueness of interpreting those rights. Kennedy (2004) argues that "human rights promises a legal vocabulary for achieving justice outside the clash of politics. Such a vocabulary is not available: rights conflict with one another, rights are vague, rights have exceptions, many situations fall between rights" (pp. 21-22). Despite these criticisms, we apply a human rights-based approach to health concerning the case of Rana Plaza. This application challenges the criticism stated above and demonstrates that human rights standards can be translated to the context of workers' health.

The Foundation of Rights-based Approaches: Philosophical and Legal Philosophical Foundation

Rights-based approaches often emphasize the value of autonomy and justice. The philosophical foundation of rights-based approaches is profoundly indebted to Thomas Hobbes and John Locke's writings of 'natural rights' in political philosophy, and Immanuel Kant and John Rawls' works on autonomy, dignity, and justice in moral philosophy. Natural rights theorists such as Thomas Hobbes and John Locke consider that an individual possesses certain rights by virtue of being a human, which is universal and inalienable.

Immanuel Kant is considered one of the pioneers of the concept of human rights. Outlining the autonomy of human being in his moral philosophy, Kant claims that human being is the supreme goal of all moral considerations. Kant (1785) explains this through the concept of autonomy. Kant's notion of autonomy has a metaphysical foundation. The notion of autonomy is directly involved with the third formulation of his *Categorical Imperative*, the universal moral law. In his concept of *categorical imperative*, he clearly mentions that human beings cannot be used as merely as a means to some other ends.

Kant (1785) presumes the same moral worth for all human beings irrespective of their status. He refers to the *realm of end* to mean the domain of autonomous human beings. In the realm of autonomous end, individuals are both giver and receiver of the universal moral law. Every individual is unique in the realm of the ends who is also the legislator for others and for his or her own.

Kantian autonomy presumes each individual as a unit in the realm of ends where everybody stands in their own dignity. In the realm of the ends, every person has the same moral worth and autonomy. This unique autonomy has given human beings the most significant status as moral agents. Perhaps this is the reason we find the reference of Kant in almost every human rights legislations of modern time.

John Rawls' principle of justice has motivated many libertarian societies to uphold individual liberty as the supreme value, which has also served as the foundation of human rights in modern libertarian societies. He mentions two principles of justice in his book *A Theory of justice* (1971). His first principle of justice claims an equal basic liberty for all individuals irrespective of race, sex or gender. Moreover, John Rawls presumes a hypothetical condition which is called the 'veil of ignorance' before formulating the principles of justice. We must forget our social, religious, and economic status as an individual when we select the principles of justice. From this perspective, everybody poses the same status behind the

veil of ignorance. Thus, the moral foundation of right-based approaches is primarily originated from the concept of autonomy and justice.

Legal Foundation

The international organizations such as United Nations, World Health Organization, and some of the treaty, convents, and declaration of global summit serve as the legal foundation of human-rights. The Office of the High Commissioner for Human Rights (2008) states nine core international human rights treaties: the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Convention on the Rights of the Child (CRC); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW); the Convention on the Rights of Persons with Disabilities (CRPD); and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPED).

All the member countries of the United Nations follow and incorporate the clauses of the treaties and convents in their constitutions to protect certain rights of all human beings. The UNICEF protects some specific rights of the children following the Universal Declaration of Human Rights. The CEDAW protects some of the rights of women and sketches out some negative responsibilities of the member states, e.g. protecting women from discrimination. The participant states abide by the outlined clauses and conditions which serve as the foundation of rights-based approach in migrant health since health is considered as one of the most fundamental rights of human beings in the above philosophical and legal foundations. The human rights convents not only protect the right to health for all human beings but also entails the right to the preconditions of health, e.g. housing, food etc.

Right-based approaches to health

A right-based approach to health argues from the point of view of human rights. The World Health Organization in one of its global consultation reports defines the human rights approach to health and determines its scope.

...[H]uman rights are fundamental components in the design, implementation and evaluation of health-related policies and

programmes provides the basis of a human rights approach to health. Furthermore, it guarantees that states are complying with their obligations under international human rights law and is often in line with their national Constitutions. Rights-based components include equality and non-discrimination, the active and informed participation of involved individuals and communities, a sustained focus on the most vulnerable and marginalized in society, and the existence and effectiveness of accountability mechanisms. The use of these normative standards and principles shapes both policy-making and action concerning health intervention at all levels. A human rights-based approach to programming would optimize a holistic and integrated process as well as health outcomes with a focus on the goals of health promotion and disease prevention. (WHO, 2010 : 46).’

A Rights-based approach also considers health as a special good. From this point of view, health is different from other public good. Health is the basic requirement to fulfill the other types of good. Thus, access to basic health care is a prerequisite of equal of opportunity. For example, one cannot enjoy the equal rights to earning if his or her health is not sound.

Applying A Human Rights-based Approach to Workers’ health

(1) Political and socio-economic rights of the garment workers are correlated

It is crucial that policies and practices regarding workers’ health in the Bangladeshi RMG sector acknowledge both the political and socio-economic rights of the workers. The Rana Plaza incident demonstrates that it is not just the physical environment of the building that created massive health hazard but the non-physical environment of the workplace. For example, the workers were too powerless to refuse to work in the Rana Plaza, an unsafe building. The garments workers are mostly women, and a majority of them are from a lower socio-economic background who usually do not possess any power to disobey their superiors’ command. When we look at the Rana Plaza accident, we must look beyond the physical environment of the workplace. An understanding of the broader socio-economic and political rights of the workers is necessary.

The World Health Organization (WHO) also emphasizes the importance of the broader socio-economic and political contexts of individuals in defining health. The concept of health, as the World Health Organization (2017) defines it, refers to “a state of complete physical, mental and social well-being and not merely the absence of disease” (WHO, 2017 : 18). In the definition of WHO, social well-being constitutes

a significant part of the concept of health. The inclusion of social well-being in the concept of health also implies that workers' socio-economic and political rights are significant in addressing their health.

The gap between rich and poor is increasing in Bangladesh despite their multibillion-dollar export business. Marmot & Allen (2014) observe that poverty and inequality in income are two underlying factors that widen health inequality in a society. Many factory owners are increasing their share of wealth by limiting wage increment of their workers which is ultimately creating huge income inequality in Bangladesh. The wealth, power and resources are now more unevenly distributed than ever before. The rise in income inequality is broadening the health gap among social classes in Bangladesh. Wilkinson & Pickett (2010) argue that in low-income countries, it is essential to upgrade the level of living standards and "it is most important among the poorest" (The Spirit Level: Why equality is better for everyone : 30). It means, if Bangladesh can ensure more equality in its resource distribution, then more people will get access to better conditions of living. The view of an equal distribution of resources also entails the fact that the broader economic contexts of the workers must be addressed in the policies and practices of the health.

With the advancements in epidemiological research, chronic disease research, and understanding of the social determinants of health, the definition of health has evolved over time. Huber and his colleagues (2011) redefine health in their paper "How should we define health?". They recognize health as an individual's ability to adapt and to self-manage in fulfilling their potential. Such a definition of health indicates that one's social and political rights are vital to the fulfillment of one's potential. When we talk about workers' health, often we indicate the health risks which are associated with physical health only.

The Rana Plaza tragedy has affected mostly the disadvantaged group of the society, people with a low income and their families. Many families have lost their only breadwinners due to this tragedy, and many of them are still enduring severe mental distress. Since people with the lower socioeconomic condition are mostly affected by the health hazards, their socioeconomic condition must be incorporated in the conversation of their health.

(2) The importance of active agency by those vulnerable to human rights violations

The accident revealed the fact that the workers were treated as merely a means of production without any consideration of their basic human rights: the right to life, freedom of opinion, and protection from torture and

violence. The Rana Plaza tragedy not only depicts the workers' poor health condition in the RMG sector in Bangladesh but also demonstrates how garments workers are deprived of their basic human rights. A human rights-based approach to health advocates for the recognition of the human agency of the workers who are vulnerable to exploitation. In other words, the human dignity of the workers must be upheld regardless of their gender and religious identities, socio-economic conditions, and political affiliations.

One of the key issues in a human rights approach to health is the concern for gender equity. The Rana Plaza case demonstrates how gender disparity has implications for health hazards. In the garment factory collapse, women represented the majority of the dead, disabled, and injured and it is the women who are still suffering from the trauma of that incident. It is important that gender equity is recognized in health. Studies show that the women garment workers of Dhaka city are exposed to different reproductive health problems because of their occupation (Khatun, Amena and Mohiuddin, Helal, 2006 : 52). This scenario also demonstrates the implication of gender in health and underpins the importance of the gender-related considerations in the conversation of workers' health. It is the nature of work that poses risks to the women garment workers' reproductive health. Factories must recognize that the gender plays an important role regarding the health of female garment workers. The recognition of the active agency of female garment workers is especially important.

Factory owners and the administrators must respect the dignity of the workers and treat them as moral agents. In Bangladesh, some factories with an overload of orders, share their "additional load of production" to some "other" factories through something known as "unauthorized subcontracting" (CBC: Made in Bangladesh, 2013). Usually, these "other" factories do not have any sort of endorsement, neither from the brands nor the Government. These ramshackle buildings have environment polluting waste disposal system, unsafe boiler rooms, faulty power generators, leaking gas lines and freight elevators that carry more than their share of burden (CBC: Made in Bangladesh, 2013; Miedema, 2017). A recent study shows that about 60% of the local factories are vulnerable due to their construction (Ormiston, 2013). These imply that garment workers are not treated as human beings with basic rights.

To meet a brand's continuous demand for cheaper prices, factory owners adjust their costs by limiting worker's benefits and other safety arrangements (Ormiston, 2013). Besides, a Bangladeshi garment worker's wage is around \$38 per month which is in fact, an obstacle to maintain a healthy life (Paul, 2013). Furthermore, corruption is making things more complicated in Bangladesh. After the incident of Rana Plaza, the local

mayor was arrested for “improperly” approving the construction of that building (Paul, 2013). Local police made a questionable arrest of an engineer who warned the factory management about the poor structural condition of the building a day before the collapse. (Yardley & Manik, 2013). These incidents demand that the policies and practices regarding the health of the workers in the RMG sector must acknowledge that the human rights of the workers must be secured at the first place.

Most of the survivors of the Rana Plaza tragedy incurred severe injury and trauma but received scant treatment because of poverty. We strongly believe that unless the Government of Bangladesh starts learning how to tackle the “inequitable distribution” of wealth, power and resources, as recommended by Marmot et al. (2008) in the final report of World Health Organization commission on social determinants of health, the widening health inequality will not be closed in a generation. Pope Francis believes that the garment worker’s situation in Bangladesh is no better than that of slave labours (Paul, 2013). A rise in income will enable them to afford a higher standard of living.

Unfortunately, the mental health issue in the conversations of workers health is underrepresented. This is especially true in the developing countries where mental health is not considered as an agenda of workers health. Stress, anxiety, and mental distress are common in garment workers due to long working hours, overtime, and low salaries. Garment factories must have proper policies to promote mental health and wellbeing in the workplace. Factories may recruit mental health counsellors in the workplace to support employees who are suffering from different mental health problems due to their working load and working environment.

The horror which faced the survivors of Rana Plaza cannot be described in words. Now, brands and retailers are trying to focus on ensuring the physical safety of factory buildings. But, we think mental health issues of garment workers also need to get priority at the same time. We need to know what brands are planning to improve the overall health condition of workers in the garment sector.

There are several dimensions of health, and one of them is the ability to maintain people’s lives with some level of independence despite a medical condition (Huber et al., 2011). Due to hazards, many workers lose their vital organs and become fully or partially disabled to work. The social justice demands that workers with a disability enjoy some level of freedom to manage their lives despite their medical conditions. It is important that their voices are heard, and it is one of the duties of the brands, factory owners, and the Government of Bangladesh to ensure the participation of all vulnerable groups in policymaking. The United Nation’s Convention on the

Elimination of All Forms of Discrimination against Women's (CEDAW) general recommendation emphasizes the need to pay special attention to the health needs and rights of women who are disadvantaged and vulnerable (United Nations General Assembly 1979: General Recommendation no. 24, para. 6).

Everybody has a right to a standard of living adequate for the health of himself and his family, including food, clothing, housing and medical care and necessary social services (The Universal declaration of human rights, 1948). Health equity can be rendered as a commitment to public health to social justice (Anand et al., 2004). The human rights principle demands that all health services must be available, accessible, acceptable, and of good quality (Rioux, 2010; UN Committee on Economic, Social, and Cultural Rights, 2000). It urges to incorporate basic principles of human rights in designing and implementing public health policies and programs. The Rana Plaza case study is an evidence of worker's rights violation. By applying principles of a human rights approach to health, we can understand the underlying issues more clearly.

(3) Normative role of human rights in establishing accountability for protections and freedoms

This section describes some examples of how a human rights-based approach may generate normative roles for the factory owners and administrators. First, the policies and practices regarding workers' health in the RMG sector requires concrete plans for establishing accountability for protections and freedoms of the workers. Many garment workers find it difficult to avail health service as factory owners hardly provide healthcare facilities to them or their children. Besides, the inadequacy of health resources and skilled professionals, and inequitable access to health services are hindering the progress of health coverage in Bangladesh (World Health Organization, 2015). City slums where most of the workers live lack proper sanitation and availability of safe drinking water (The United Nations Children's Fund, 2015). The poverty of these garment workers can be compared to the conditions of 19th century English working class. Engels (1845) doubted if a class remain 'ill-provided' with essential means of living, they are bound to be unhealthy and cannot reach the advanced age (The Conditions of the Working class in England : 128). Low wage can be perceived as a hindrance to obtaining a standard way of living. The RMG sector must ensure that the guidelines and policies of health play a normative role in ensuring the freedoms of the workers. As such, establishing workers' unions may serve as a protection for the rights of the workers.

Second, health care facilities such as hospitals and clinics are not easily accessed by the workers who struggle to live with their discriminatory level of wage. We think the healthcare system in low-income countries systematically discriminates people based on their socioeconomic positions (i.e. poor people get lesser access than the rich). Workers in many factories are directly exposed to toxic chemicals as they do not have sufficient information on workplace regulations (CBC video: *Made in Bangladesh*, 2013). It evidences that many workers have less access to health-related information to understand the aspects of risk. We think, privately arranged training programs conducted by brands and retailers are not making enough impact to enhance awareness about health among workers.

The Government of Bangladesh is constitutionally obligated to safeguard the interests of its labour force removing social discrimination on the grounds of gender. But, on an average, a male worker in Bangladesh receives 21.1% more hourly wage than a female worker (Kapsos, 2008). It certainly reflects the intensity of patriarchal orientation in the Bangladeshi society. Women still face different forms of abuse, harassment and discrimination in homes and workplaces (Siddiqi, 2003). About 80% of the garment workers in Bangladesh are women (Chowdhury et al., 2015). So, it is not hard to imagine why society is so lax about increasing the wage in this garment industry.

Third, health care facilities are highly generalized in Bangladesh, and they are less effective in addressing gender-specific needs. Though most of the garment workers are women, the health services inadequately address women health issues such as personal hygiene and nutrition. Many healthcare facilities have not built adequate capacity to meet working women's needs (The United Nations Children's Fund, 2015). Access to health services that are respectful and sensitive towards women are considered as one of the essential human rights (United Nations General Assembly 1979: General Recommendation no. 24, para. 6).

Fourth, many factory owners feel disinterested to improve the quality of healthcare service for workers. The "race to bottom for ever-cheaper price" as mentioned by Ormiston (2013), has somewhat pushed factory owners to focus on cost-cutting rather than investing in improving health care facilities for workers. As a result, the health service workers usually receive, are mostly of low quality. Most of the workers face extreme obstacles in meeting the prerequisites of health such as peace, shelter, education, food, income, a stable ecosystem, sustainable resources, social justice, and equity as mentioned in the Ottawa charter (World Health Organization, 1986).

Fifth, low-income countries can improve worker's health and safety condition by empowering their factory inspectorates with adequate workforce and training. Brands can work together with different stakeholders to improve worker's wage, accommodation and health facilities. Inspection programs can be designed to cover all aspects of safety issues in factories. Brands can have a collaboration with the local Government to make the regular evaluation of safety agreements and inspection programs to ensure accountability.

The International Convention on economic, social, and cultural rights has identified healthy working and environmental conditions as two of the social determinants of health (Rioux, 2010). But in many factories in Bangladesh, workers are often seen working in a polluted environment where face masks, helmet, gloves and other safety gears are not made available to them. A lot of factory supervisors use abusive language to deal with female workers (CBC video: Made in Bangladesh, 2013). Despite risks of significant harm, some factory owners force workers to work in a tremendously dangerous environment violating workers' fundamental right to have a safe workplace. The day before the collapse, the factory workers noticed cracks in the building wall and they instantly informed their management about the fault. But the owners, instead of listening to them, forced them to work under the perilous condition (Yardley & Manik, 2013). Many workers believe that they may die anytime in their workplaces due to unsafe conditions (CBC video: Made in Bangladesh, 2013).

After the Rana Plaza incident in Bangladesh, the majority of international corporations stopped importing clothes from Bangladesh, partly to avoid the responsibilities of such a tragic event in the future and partly due to the continuous pressure from their consumers in developed countries. However, business organizations in developed countries have an obligation to mitigating the health risks and promoting workers' health in low-income countries where they operate a business. The parent organizations in the developed countries can make their manufacturers to maintain certain health standards in the workplace.

Gender-sensitive infrastructures and workplace policies, such as having breastfeeding rooms and women's toilet, may contribute to the promotion of workers' health in the workplace. It is also important that a workplace ensures protective measures for women from sexual harassment from their superiors and co-workers.

The Rana Plaza case revealed that garments workers were forced to join their workplace on the day of the accident despite declaring the building as unsafe (Yardley, J. and Manik, A. J., 2013). This shows how the superior employees and factory owners dictate the lower level employees

ignoring the basic human rights of the workers. Thus, it is important to incorporate human rights considerations in the conversation of workers' health in the context of the garment sector in Bangladesh.

Conclusion

In addition to the physical environment and infrastructure of a workplace, the psycho-social aspects are equally important in the conversations of workers' health. A healthy working environment refers to the conditions that constitute the good health and wellbeing of the individuals working in an occupation. This includes both the physical environment of a workplace and the socio-economic contexts of the workers. The Rana Plaza accident has compelled us to look beyond the physical environment of a workplace. The human rights considerations have not received enough attention in the conversation of workers' health in the RMG sector in Bangladesh. The Rana Plaza tragedy makes us to re-think about the human rights of the workers in the garment industries. The basic human rights of the workers must be addressed in the policies regarding workers' health.

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