

## Protecting Child Labour in Bangladesh: Domestic Laws versus International Instruments

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**Abstract:** *This study tries to present the socio-economic scenario of child labour in Bangladesh which has in recent times attracted concerted attention not only in Bangladesh but also all over the globe. Indeed, child labour is recognised as a considerable part of the existing labour market and by the present write-up this statement has been upheld through a number of case studies. There is no question as regards the indispensability of elimination of child labour from the society but question arises whether it would bring good for any particular society (such as Bangladesh). Child labour problem is a socio-economic reality in the country which can't be ignored. Hence steps have to be taken at first to decrease child labour gradually rather removing it diametrically from the society. It should be remembered that if child labour is driven out just now from the country, then that would jeopardize the child labourers who earn their own bread or for the families who depend on the child workers. This article attempts to search out the ways how child labour can be decreased gradually and at the end of the paper these ways have been presented as suggestions or recommendations.*

### Introduction:

Child labour is now a global concern and as such attracted attention of people in various sectors. In fact, it is the product of an unequal society. As Vittachi observes, child labour shows up, in exaggerated form, a labour problem deeply woven into the fabric of an unequal society (Vittachi, 1989). Following the observation it can be said that poverty emerges from unequal distribution of wealth and this virtually leads children to go to work and while discussing the causes of child labour, this article considers poverty as one of its principal reasons. However, child labour is work which impairs health, physical development and education of children. Children's participation in economic activity that does not negatively affect their health and development or interfere with education can be positive. Indeed, light work that does not interfere with education is permitted from the age of 12 years under the International Labour Organization (ILO) convention no.138.

Bangladesh is the home to more than five percent of world's working child population (The New Nation, 2004). Besides, South Asia, which includes Afghanistan, India, Pakistan, Bangladesh and Srilanka, remains a child labour hotspot (World Bank, 2004). Further, the majority of child domestics tend to be 12 to 17 years old (Bangladesh Bureau of Statistics (BBS), 2002-2003). But children as young as 5 or 6 years old can also be found working and a survey of child domestic workers found that 38 percent were 11 to 13 years old and nearly 24 percent were 5 to 10 years old (BBS 2002-2003). Child domestics work long hours, getting up well before their employers and going to bed long after them and 50% domestic workers work 12 to 14 hours a day (Rahman, 1994). Furthermore, Bangladesh Bureau of Statistics estimated in 2004 that the total number of children of age group 5-17 years in January, 2003 was at 42.4 million of which 35.1 million were in the age group 5-14 and 7.3 million were in 15-17 years age group. Out of the total estimated child population aged 5-17 years about 22.7 million were boys and 19.7 million girls (Bangladesh Bureau of Statistics, 2002-2003).

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The above data show an enormous number of child workers who are working in the existing labour market and this clearly forces the society to pay attention to the child labour problem. Honestly speaking, when it is time to go to school with books in the hand, the ill-fated children of the country are being forced to work inhumanly only for the survival and income generation of the family. In the working places they are exploited more than the adult workers. It is for these reasons that child labour has been given some importance in Bangladesh and a great deal in the world.

### **Objectives of the study**

This study focuses on the trend, impact and legislation of child labour in Bangladesh, taking into consideration the international instruments and suggests some policy measures. The major objectives of this study are as follows:

- a) To examine the current scenario and the trends of child labour in Bangladesh.
- b) To explore the causes of it around the country.
- c) To identify legislation governing child labour and to assess positive and negative impacts of it.
- d) To find out as to whether the domestic legislations concerning child labour inside the country is in consonance with the international instruments.
- e) To make policy recommendations.

### **Definition of 'child' and 'child labour'**

The 1989 United Nations Convention on the Rights of the Child (CRC) and the 1999 International Labour Organization Convention on the Worst Forms of Child Labour define a child as an individual under the age of 18 years, unless under the law applicable to the child majority is attained at an earlier age. Historically speaking, Bangladeshi laws have proven to be inconsistent in their determination of an age regime as some Acts were promulgated during the British period, others during the Pakistan period and a handful have been promulgated since the independence of Bangladesh in 1971. For example, the Child Marriage Restraint Act 1929 imposes a gender distinction by setting the age of majority in order to contract a valid marriage at 21 years for men and 18 for women. However, the Children (Pledging of Labour) Act 1933 and the Employment of Children Act 1938 determine that the minimum age for children is 15 and 12, respectively. To further complicate things, the *Factories Act 1965* states that individuals under 14 years of age are children whereas the *Children Act 1974* states that a child is an individual under 16 years of age. In addition, under contract law, a minor cannot enter into agreement until attaining the age of 18. Muslim personal laws on marriage, however, determine that a child becomes an adult on attaining the age of puberty. In response to these varying laws and the lack of a uniform age regime, the highly-anticipated 2006 Bangladesh Labour Act both consolidates and

abrogates all of the existing labour laws and determines that a child is an individual under the age of 14. The Bangladesh Labour Act, 2006 defines an adolescent as an individual between the ages of 14 and 18. An adolescent can work in a factory if a certificate of fitness is granted to him or her, if he or she carries a token while at work which gives reference to the certificate. An exception is provided for, as per section 44, a child who is 12 years of age may be employed if the work does not endanger his or her health or interfere with his or her education.

On the other hand, child labour is defined as work that deprives children of their childhood, their potential and dignity and that is harmful to physical and mental development. UNICEF, the United Nations Children's Fund, defines child labour as work that exceeds a minimum number of hours, depending on the age of a child and on the type of work. For children aged 5 to 11, this would include at least one hour of economic work or 28 hours of domestic work per week. For the 12 to 14 age group, this would include at least 14 hours of economic work or 28 hours of domestic work per week and for children aged 15 to 17, child labour occurs when a child works at least 43 hours of economic or domestic work per week. Besides, the International Labour Organization (ILO) asserts that the term child labour refers to work that is mentally, physically, socially or morally dangerous and harmful to children and interferes with their schooling by depriving them of the opportunity to attend school, obliging them to leave school prematurely or requiring them to attempt to combine school attendance with excessively long and heavy work.

### **Fundamental aspects of child labour in contemporary Bangladesh**

In Bangladesh child labour as a problem did not grow directly with the growth of factories engaged in the business of surplus production. Rather it seems to be related with on the one hand, the economic hardship caused by a too large population and meagre means of subsistence and, on the other, the growth of modern urban centres drawing in a large number of rural families (Mia, 1989). The various distressing facets of child labour pointed out by Watkins (2012), nevertheless, apply to all patterns of child labour. The employment of children is a phase of general problem of child welfare, involving far reaching physical, moral, mental and economic effects (Watkins 2012).

Many children in their workplace face multi-dimensional forms of violence that cause long lasting harm to their natural development. Children consistently expressed their concerns about the absence of a safe environment, which leads to violence, abuse and exploitation within the family, community, street, work place, and school, in state and non-state institutions and also in the justice system. The current governance deficit in Bangladesh has further aggravated the situation because the duty bearers such as lawmakers, executives, police, probation officers, and even judges remain insensitive to children's rights and fail to provide protection, special care and treatment.

In recent years, however, child rights have featured increasingly in policy debates and discussions amongst government officials and NGOs. News reports on violence and torture against children in the print media and in the private TV channels has increased. Many organizations are also working to sensitize the public so that

there is increased awareness of child rights. It is necessary to mention here that the government is committed to protect the child but it lacks depth of understanding and consistent planning. For example, the Children Act, 1974 is a broad-ranging and progressive instrument dealing with the State's role in providing protection to children. Its focus is on juvenile justice, with much less clear provision for the treatment of children experiencing violence. This is not widely known or understood by duty-bearers (available at <http://www.askbd.org/Hr06/child.htm>, last visited on 13.3.2011). Undoubtedly, the Children Act, 1974 is a masterpiece of legislation, well advanced for its time, enacted to cater for the rights of children, incorporating the multifarious beneficent Declarations, Conventions and other international treaties, for the betterment of the children-kind (available at <http://www.crin.org>, last visited on 12.3.2011).

However, it will be easier to understand the violence rate of child domestic workers if some statistics presented by the Bangladesh Shishu Adhikar Forum (BSAF) are examined. Under help line service BSAF has addressed almost 135 (till December 2008) cases who are victims of different violence. It seems that comparatively girls are more victims of domestic violence.

**Table 1: Child Referred through Help Line Service in 2007 and 2008**

Year	Number(Female)	Number (Male)	Total
2007	41	37	78
2008	40	17	57
Grand Total	81	54	135

The table above reflects the total number referrals made through Help Line Service of BSAF for 2007 and 2008 at 135. The year wise figures in 2007 have been 41 female and 37 male totalling 78. In 2008 the corresponding figures were 40 and 17 respectively or 57 in total. Between the two years the number of cases referred in 2008 shows a lower trend, the decline has been 21 in a year (BSAF 2008).

However, with a view to giving access to labour law, the Ministry of Labour and Employment has recently adopted a National Child Labour Elimination Policy 2010, which provides a framework to eradicate all forms of child labour by 2015. A Child Labour Unit has been established as part of this policy, which will have responsibilities including collecting and disseminating data relating to child labour. According to this policy, the criteria for defining hazardous work for children includes: working more than five hours a day; work that creates undue pressure on physical and psychological wellbeing and development; work without pay; work where the child becomes the victim of torture or exploitation or has no opportunity for leisure. However, the process to harmonize the Children Act 1974 with international legal standards is ongoing. The 1974 law as well as the new draft provides penalties for engaging children in child labour.

It is necessary to point out here that UNICEF has now been advocating for the creation of a Children's Code, in order to harmonize domestic legislation with the Convention on the Rights of the Child including Art. 32 on child labour. UNICEF has also been working with the Ministry of Social Welfare and other ministries and NGOs to undertake mapping and assessment of Bangladesh's child protection system. Based on this, a Child Protection Policy will be developed, including child labour aspects. For the proper assessment of the age of the child, the government adopted the new Births and Deaths Registration Act in 2004, which makes birth registration compulsory for everyone in Bangladesh. It has also adopted a Universal Birth Registration Strategy which aims to register everyone by the end of 2010. Birth registration rates have increased significantly: from 10% in 2004 to 54% in 2009. The Birth Registration Information System continues to be developed (available at <http://www.unicef.org/evaldatabase/files>, last visited on 3.3.2011).

Furthermore, Bangladesh has adopted the United Nation's Convention on the Rights of the Child (UNCRC) in 1990. Bangladesh has a number of laws for the protection of children. Under articles 14 and 15 of the Constitution, a child has the right to social security. Article 28 gives the state power to impose special ordinance for serving the child's interest whereas Article 34 prohibits the coercion of children into doing hard labour. The Children Act (1974) has banned the use of vulnerable child labour yet we still see children working in the ship breaking yards in Bangladesh (available at [http://www.shipbreakingbd.info/Rights\\_violation.html](http://www.shipbreakingbd.info/Rights_violation.html), last visited on 10.3.2011).

Save the Children conducted a study to understand the situation relating to live-in child domestics in urban households of Dhaka city and to identify the key issues related to the relationship of employers with the domestics, tasks performed by children, work environment and the nature of exploitation. In the study certain strategies have been offered for the protection and gradual elimination of child domestics. Therefore, certain non-governmental organisations can have programme interventions aiming at:

- the improvement of the conditions of work, especially in respect to hours of night work, rest and recreation, the regulation and methods of remuneration and the protection of wages
- the promotion of occupational safety and health facilities
- the introduction of non-formal education and skill training by which the children who are obliged or compelled to work as domestics can combine work with education or training
- the provision of welfare schemes and services for child domestics in those areas where it is more prevalent and near the domestics workplaces
- the dissemination of information about child rights through mass media to create greater awareness both among the employers and the child domestics on this issue.

In addition, the government can undertake the following:

- the adoption and strict enforcement of laws and regulations prohibiting the abuse and exploitation of children in domestic work, if not its total elimination

- the expansion of educational facilities in urban areas for effective implementation of compulsory primary education of the government
- the introduction of area wise identity cards for the child domestics so that they can be traced easily when educational and training programmes will be introduced in those areas.

It was also suggested that for the success of these programme interventions, there should be strong co-ordination between the government and the non-governmental organisations as well as firm commitments on the part of both of these sectors. In the study it was also shown as to how much employers are satisfied keeping the child domestics (Save the Children 1995).

The welfare of child workers must be the highest priority in any action on child labour. Firing children without consultation and without offering them and their families alternative sources of livelihood is a fundamental breach of the United Nations Convention on the Rights of the Child 1989. That is why actions were suggested to be taken by the companies, which include consult with suppliers and stakeholders; develop policy; establish monitoring and implementation systems; train buyers and quality-assurance staff; form a joint plan of action and agree time frames; budget to fund child labour interventions; encourage and support suppliers to act responsibly; ensure that reporting of progress and problems is transparent; review progress and spread best practice (Save the Children, 2000).

### **Child labour in various sectors**

Child labour in Bangladesh is not a new issue as children remain here as one of the most vulnerable, exploited, underprivileged, dominated and subservient groups. Indeed, child labour in Bangladesh is alarming in various sectors which can be observed in a survey of 2002-2003 conducted by the Bangladesh Bureau of Statistics. At present, in Bangladesh 7.9 million children ages 5-17 work, children represent 16.6% of the total workforce., 62% of all working children are employed in agriculture, 149,000 children are engaged in the worst forms of child labour and 1.4 million children do hazardous work (available at [www.concernusa.org](http://www.concernusa.org), last visited on 06.11.2010). Besides, the highest proportion of working children, some 49.5 percent, was found involved with informal sector that means, unpaid economic activities in family farms or business (Bangladesh Bureau of Statistics, 2002-2003). It was also found that 28.6% were employed as paid day labourers, 14% were sales workers while transport sector engaged 25.4% of them (BBS, 2002-2003).

There is a clear-cut distinction between urban and rural working sectors. Rural working children are mainly engaged in agricultural activities and urban working children are mostly involved with formal working sector. The aforesaid survey found similar trend. According to the survey, 2.5 million urban working children are labouring in the formal working sector where they are always faced with dismal, deplorable and abject working conditions, unfixed wages, health hazards, lack of recreation and are exposed to mental, physical and sexual harassment. It is also mentionable that usually children working in the industrial sector have no contract of employment and this ultimately makes it difficult for them to stand up and fight for their rights. Practically,

working children are used and exploited for the benefit of the better off sector of society. This is not really deliberate exploitation of children by the wealthy rather reflects the attitude of the society. That means, employers prefer children as they are cheap, productive and obedient (The Daily Star, 2006).

In Bangladesh children are engaged in industries, workshops, tanneries, agricultural sector, transport sector, construction sector, *beedi* factories, ship-breaking yard, restaurants and tea-stalls. They also work as maids and domestic servants. They are also engaged in some of the hazardous jobs where the rate of child labour is high, working atmosphere unhygienic, ages abnormally low and wages unfixed (The New Nation, 2004). Apart from these, a large number of children predominantly girls, whether in the urban and rural areas, are employed as domestic helps. In total contrast, boys in the villages' look after the domestic animals and in the cities are engaged in marketing, taking children of the householder from schools etc. Such works are not hazardous and may be good if they are provided adequate food, clothing, and place to sleep and treated politely and mercifully when they commit wrong.

It is to be pointed out that before the enactment of the Harkin Bill in 1993 a large number of children were engaged in garments factories. According to a statistics published in the *Bhorer Kagoj* on 12<sup>th</sup> January, 1992, in different garments factories of Bangladesh 30% of the workers were children. They did nonstop work, were not provided with transportation or food and had no scope to enjoy weekly holidays or medical leave. In reality, employers took advantage of their situation and employed underage boys and girls in their industries to have maximum services with minimum wages. Again, if a child was absent from work for a day, he would either have that day's salary deducted or lose his job. Besides, in many factories child workers were appointed as 'apprentices' or 'helpers' for months and were not issued appointment letters even after completing the apprenticeship period. Further, girl workers under 15 were preferred in these factories, as they worked for less, were unmarried and caused no labour problem.

But the Harkin Bill of 1993 prohibited import of goods into USA produced by employing child labour. After that, in many of the garment factories child workers had been expelled as an immediate reaction to the bill. The strong reason behind this step was that as USA is the single largest importer of Bangladesh garments, so Bangladesh manufacturers or producers can't overlook the provisions of the Harkin Bill. Now the "Bangladesh Garments Manufacturers and Exporters Association" (BGMEA) is very cautious against any violations of the Harkin Bill. Even then violation, though little, is occurring all over the country.

#### Case study 1:

Md. Rahim\*, aged 13, lives in a slum in Mirpur, Dhaka with his parents and works in a factory in Gabtali with almost 150 workers among whom about 100 are child workers. He has been working there for about 4 years

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\* Pseudonym has been used in all cases

daily from 8 am to 10/11 pm in lieu of Tk. 1000 per month. His educational level is only up to literacy. He is not provided with any festival bonuses, festival leave, weekly holiday or extra income for overtime works. If he is absent from work for a day, he will have that day's salary (near to Tk.30) deducted. Behaviour of his employer is very cruel, sometimes abuses and sometimes beats him.

### **Causes of child labour**

Causes of child labour can be discussed from different aspects and it is agreed and seen that the problem of child labour is substantially located in the developing countries. Accordingly in Bangladesh also child labour is very high and its causes are varied some of which are as follows:

#### *A. Poverty*

The principal cause behind child labour is poverty. The National Child Labour Elimination Policy, 2010 also identified it as the first and chief reason behind children involved in working. In this regard let's first look at the definition of poverty, it is found that there are two dominant worldviews of poverty, namely, 'absolute' and 'relative' which have attained high attention in poverty literature. Absolute poverty means absolute deprivation or starvation. It illustrates a people or family who simply do not have enough to eat and sustain. Absolute poverty is common in the poorer third world countries. On the other hand, relative poverty means low standard of living compared to the average standard. In the industrial countries, relative poverty is essentially a measure of inequality (Islam, 2005). From this viewpoint it is said that in our country absolute poverty exists. Here around 55 million people are considered to live below the poverty line (The Daily Star, 2006). They have no surety of food and this compels many of the parents to send their children to work. Truly, for many, forcing their children to work is the only way to survive. In Bangladesh 67% children work due to financial hardship, either to contribute labour for wages to supplement household incomes or to work at home so that adults can work outside (The New Nation Online Edition, 2004).

#### Case study 2:

Md. Abdur Rahman, aged 12, worker in a Motor workshop in Mirpur, came from a village in Faridpur to Dhaka for livelihood. His father is dead and mother is a housewife. He has 5 brothers and sisters. He is the eldest in the family and that's why he has come to Dhaka to work so that he would be able to maintain his mother and the younger brothers and sisters. He has studied up to class six and his mother up to class three. It is his mother who has encouraged him to come to work. In that garage there are about 20 workers among whom 10 are about his age. Rahman works daily from 10 am to evening and no weekly holiday is provided. As he is new, it has been agreed that he will now be provided only with food and shelter. His employer's behaviour is good. He wants to be a good mechanic and has no will to study in future, even if he gets the opportunity.



Case study 3:

Md. Shahidul Islam, aged 13/14, acts as a helper of Dhaka's local bus. He came from a village in Natore district. His father is a worker in a sugar mill and mother housewife. He has 2 brothers and has studied up to class three. His mother's educational status is only up to literacy. In truth, his father is a seasonal employer, as such it was usual for Shahidul to maintain his family through economic hardship and this economic uncertainty motivates him to come to this job. He was also encouraged by his parents to adopt the profession. He has been working there for about 5/6 months daily from 5 am to 11/12 pm. His average income is Tk. 100/150 per day. After keeping some of his earnings (which is necessary) for himself, he sends the remainder to his home. His employer behaves well with him. He wants to be a driver and is not willing to study at a later period if chances come. Shahidul works like a day labourer, for if he misses one day, he loses earnings for that day. There is no scope to earn extra money or festival bonuses. A fixed amount of earnings by hard labour all day is to be given to the mahajan, afterwards the rest of it is to be divided between the conductor, helper and the driver.

Case study 4:

Md. Hossain, a vegetable huckster, lives in a slum with his parents who migrated from a village in Mymensingh district. His father, was also engaged in the same profession and his mother is a housewife. He has one brother and one sister. He is 12 years old and has been doing this job for about 5 years. His father can't work due to old age which has forced Hossain to come to work and to leave school when he was in class four. He does not know his mother's educational level. He gives all of his earnings to his family. Hossain works from 8 am to 12 noon, earns a daily average of Tk. 70, wants to work in a vegetable selling shop and has no intention to study in future, if opportunity arises.

**Lack of awareness and embedded tradition**

Lack of awareness and the firmly established tradition also play an important role to prolong child labour. Indeed, most of the parents are unaware about the notion of "child labour". They know neither what is meant by child labour nor the harmful effects of it, or put any attention upon their children's needs pertaining to education. They neither understand nor try to realize that if their children enter work force without acquiring education, the lack of basic schooling won't give them any opportunity to find good jobs when they attain majority. Again because of the embedded tradition in our society majority of the parents think that their children will earn from early ages and will contribute to the family budget, though there may be no compelling necessity. This also happens due to the ignorance, unawareness of the parents who imagine that their children are learning a useful trade. Further, a considerable number of children enter into jobs by observing their friends who are devoting their labour in the labour market, whatever the nature of work.

Case study 5:

Mahmud works in a motor workshop in Mirpur. He migrated from a village in Jamalpur with his parents. His father survives as a rickshaw puller in Dhaka city and mother works at home. He has 2 brothers and 5 sisters. There are in total 20 workers in the motor workshop among which 10 are child workers. He is now 19 years old and has been giving his service there for 7 years. His parents did not induce or force him to labour but his father always encouraged him to learn a satisfactory trade. He left school when he was in class six. His mother is the only literate one. He works in that workshop daily from 9 am to 6 pm. His monthly income is Tk.4000 of which he keeps something to himself and gives the rest to his parents. This is not his fixed salary that must be paid. If the mahajan (owner of the workshop) has no work in hand, in that month he is given leave and not provided any wages. But when the mahajan has so many businesses in hand, then no leave or even weekly holiday is offered. His employer's behaviour is friendly and cordial.

#### Case study 6:

Md. Kamrul, aged 12, lives with his parents in Mirpur, Dhaka. He has 3 brothers and 2 sisters. He has been working in Dhaka's local bus for almost 3 years. He had stopped his studies according to his own will when he was in class five. His mother is only literate. For the entry into the job he was motivated by his friends who work in different professions. His parents neither permitted nor prohibited his work. He works daily from 7 am to the next day's 7 am, has to take food and sleep in the bus during working hours and earns almost Tk.250 per day. He wants to be a driver and has no intention to get into a satisfactory position through studying.

#### **Parents' feeling of insecurity about their children**

Many parents in our society fear that if their children spend their time idly, they may get involved in anti-social activities. For this reason they try to find an occupation for their children and keep them away from idleness and vagrancy.

#### Case study 7:

Md. Mobin Rahman, aged 13, works in a motor workshop in Mirpur. He came from a village in Singhair to Dhaka with the expectation of learning a good trade. His father is a peasant and mother a housewife. There is no want in his family. Even then his parents has sent him to work afraid he may be spoiled if remains home idly. He studied up to class two and his mother up to class three. He works daily from 8 am to 6 pm, earns Tk.1200-1300 per month (he is provided with food and shelter by the mahajan), not eager to study at a later period and only wishes to go abroad after learning this trade.

#### **Lack of education of the parents, especially of mothers**

Because of lack of education the parents neither understand what child labour is nor what are its effects, as such they very often encourage children and in some cases put pressure on them to work instead of going to school, though they are not in need of work. In this regard if we keep in mind the above 7 cases, we note that all the child labourers obtained support of their mothers whose educational level is only up to literacy or basic schooling. A UNICEF survey of selected countries in Latin America, the Caribbean, South Asia and Sub-Saharan Africa finds that on average children with uneducated mothers are at least twice as likely to be out of primary school than children whose mothers attended primary school (UNICEF, 2010).

### **Miscellaneous factors**

Besides the above reasons, many children engage in work in order to supplement the family income and the parents do not even restrict them. They see nothing abnormal in working at an early age. Further, due to the internal migration that takes place from one place to another within the country, many parents fall into hard financial crisis which also lead children to go to work for survival. Inadequate recreational infrastructure also engages many children in work. Furthermore, insufficiency of schools, poor curriculum, absence of proper nursing and care of pupils by the teachers, lack of usefulness of education for their survival and profession and the long time needed for education also lead some children to begin work at an early age. Usually child labour is high in the poor developing countries but several industries of rich countries also pay for the products made with child labour. If the owners of these industries of rich countries would boycott the products made with child labour, then the owners of the industries of poor countries like ours would be aware of not using the child labour. Both foreign and our owners know about the harmful effects of child labour but they use them for their own interest. So this lack of child friendly values keeps child labour alive in our society. Another point is that many people in our country employ children violating the labour laws, but there is no punishment for such violation. Government has so many laws but implementation is missing. Though this is not a cause of child labour, but this non-implementation is encouraging the employers to use child labour in making their products or in performing their businesses.

At the end it can be said that though poverty is the principal cause behind child labour, child labour is also caused by a variety of other reasons.

### **National and international instruments regarding child labour**

In recent times the problem of child labour is widely discussed in the country but effective initiatives to eliminate or decrease child labour is hardly seen. Though there is a lacking in adopting measures to solve the problem, our constitution covers the issue perfectly. Since the very inception of the Republic, protection of the child has been declared to be one of the fundamentals of the state policy of Bangladesh. Articles-14 and 15 of the constitution protect the rights of children and the right of social security. Article-17 imposes an obligation upon the state to take effective measures for free and compulsory education for all children to such stage as may be

determined by law and under Article-18, the state is empowered to make special provisions for the benefit of children. Besides, by Arts. 27, 28, 29, 31, 34, 37, 38, 39, 40 and 41 fundamental rights of all citizens are ensured. Specially, all forms of forced labour are declared as forbidden and in case of violation of such rights legal scopes to seek remedy are available. It is, however, necessary to mention here that *the constitution of Bangladesh does not prohibit child labour*. It only contains certain articles affecting children. The existing laws of the country regarding child labour also does so. These do not prohibit child labour rather provide certain standards for the employment of children. Again the present domestic laws do not cover children who are engaged in household services, such as, in agricultural sector, or domestic help. As a result, it is hard to count the actual rate of child labour and almost impossible to protect them from exploitation through legal procedures.

However, the following are the domestic laws which are working for the protection of the rights of the child.

**a) National Child Labour Elimination Policy 2010:**

Different laws of the country have given the definition of child differently but till now a clear definition of the terms 'child labour' or 'child labourers' is not found anywhere. In these circumstances, the age based definitions of child and adolescents as given in the Bangladesh Labour Act, 2006 are followed in every discussion relating to child labour. According to the definition, work performed by a child will be considered as child labour but the term 'child labourer' should not be used here rather he may be termed as a *child engaged in labour*. The policy advocates a friendly world for the children engaged in work and provides a standard framework concerning education, health, working environment, specific working conditions, recreation, treatment, and security, social awareness building for managing and reducing risks of child abuse by employers. Besides, to supervise the child labour related issues a definite ministry is required. Child concerned matters are regulated by the Ministry of Women and Children Affairs and labour related issues are by the Ministry of Labour and Employment. But no ministry is wholly authorised to administer the child labour issues. That is why the policy articulates recommendation for giving the entire responsibility of supervising every issues concerning child labour to the Ministry of Labour and Employment as a focal Ministry. A Child Labour Unit is also suggested to be made for co-ordinating all the activities that are mentioned in the Policy of 2010. Furthermore, the policy points out that a National Child Labour Welfare Council can also be created by the experts in child labour studies whose duty will be to observe the circumstances of child labour at national and international level with a view of suggesting to the government.

**b) Bangladesh Labour Act, 2006:**

The most remarkable legislation in the country for regulating child labour is the Bangladesh Labour Act, 2006, which includes a chapter on child labour. In the earlier laws, the term "child" was used to mean a person who had not completed 16 years of age and the term "young person" was used to mean and include both the child and adolescent. Under the earlier law, even a child could have obtained a fitness certificate to get a job in a factory. But in the new law, child means a person who has completed his or her fourteen years of age and

adolescent means the person who has completed sixteen years and has not completed eighteen years of age. The present law specifically prohibits employment of children and makes a provision for fitness certificates for the adolescent only. But a child, who has completed twelve years of age, may be employed in such light work as not to endanger his health and development or interfere with his education. Provided that the hours of work of such child, where he is school going, shall be so arranged that they do not interfere with his school attendance (as per section 44). However, the Act of 2006 does not provide a strong enforcement mechanism for the child labour provisions. Additionally, the vast majority of children work in the informal sector which makes enforcement of the relevant legislation challenging.

**c) The Children (Pledging of Labour) Act, 1933:**

Under this Act, a person under the age of 15 years is treated as a child. This Act prohibits the making of an agreement to pledge the labour of children in return of consideration and if the conditions under which the agreement is made are such as to be detrimental to the child, the Act makes the agreement void. But this Act is ambiguous with regard to children who are employed without such agreements. In fact, this Act forbids parents or any person from compelling children to work.

**d) The Employment of Children Act, 1938:**

This Act applies only to those occupations that relate to transport of passengers, handling of goods and processing work. A child is defined in this Act as a person under the age of 15 years and this Act prevents them from working in the transport of passengers and handling of goods by road, railway or any sea port. This Act makes concessions with regard to children up to the age of 17 years employing in the aforesaid activities but in this case one condition is that the periods of work have to be fixed in such a way as to allow intervals for rest of at least 12 consecutive hours including at least seven consecutive hours between 7 pm and 7 am. Again this Act astonishingly permits children below the age of 12 years to engage in processing activities and for this purpose identifies the workshops where children of this age group may work. Furthermore, children over the age of 15 years and under the age of 18 years are allowed to work under the fixed working hours which the Act specifies.

**e) The Tea Plantation Ordinance, 1962:**

The Act does not define a child but provides that children under the age of 12 years are not allowed to work in any tea plantation. Moreover, children above the age of 12 years and adolescents between the ages of 15 and 17 years may be permitted to work in tea plantations provided that they are granted a certificate attesting to their physical fitness. But children are not allowed to work other than between 6 am and 7 pm. This Act also contains provisions for violation of the Act.

**f) The Children Act, 1974:**

This Act principally applies to children who commit anti-social activities but various aspects of child exploitation ranging from begging, exposure to drugs and liquor, brothels and seduction are dealt with in sections-34 to 43 of the Act. This Act also imposes penalties on those who exploit child employees. It provides that whosoever secures a child ostensibly for the purpose of menial employment or for labour in a factory or establishment, but exploits the child for his own ends, withholds his earnings or lives on it, shall be punishable with fine or imprisonment or with both. The Act further provides that whosoever secures a child ostensibly for any of the purposes mentioned above but exposes the child to the risk of seduction, sodomy, prostitution or other immoral purposes shall be similarly punishable with fine or imprisonment or with both.

**g) The Mines Act, 1923:**

The Act restricts the employment of children in a mine or any part thereof which is underground. A child is defined in this Act as a person who has not completed his fifteenth year. But a person of 17 years or above may be employed in a mine provided that they are granted a certificate attesting to their fitness. Besides, the hours of work for such persons must be so fixed as to allow an interval of rest of at least 12 consecutive hours including at least seven consecutive hours between 7 pm and 7 am.

Therefore, different statutes of the country have defined children differently according to the different labour sectors, though the National Child Labour Elimination Policy 2010 has made the age of child labour specific. In fact, the above provisions of different Acts do not prohibit child labour rather inserts provisions for the employment of children. The reason behind this may be that if child labour is absolutely forbidden, that will severely affect children and their families who depend on the income of children and children may be involved with more exploitative informal activities (which do not come under the purview of the above Acts) than now. So child labour cannot be eliminated from the society totally just now. That's why steps should be taken at first to decrease it gradually. In this case the laws regarding child labour should be more child-friendly.

Much have been discussed here up to now about the enactment of laws. At this stage the paper will refer to the enforcement of laws. Indeed, the existing laws of the country are not implemented fully. Though there is a provision of keeping a separate register for working children, most of the factories don't observe that rule. Working conditions are not as per law; medical facilities are not provided and inspections are few and in places where inspectors appear, it is common for them to collude with employers and make out an excellent inspection report for a price without so much as actually observing. Similarly the implementation of the present domestic laws as regards child labour, the law enforcement agencies should be fair and free from politicization and corruption.

Legislative measures for the protection of children and the eradication of child labour have been adopted at the international level. Among the various international policies on child labour, the most extensive standards are those adopted by the following:

**a) ILO Minimum Age Convention 138 (C138), 1973:**

'The Convention Concerning Minimum Age for Admission to Employment' is a Convention adopted in 1973 by the International Labour Organization. It requires ratifying states to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment

or work. This Convention replaces several similar ILO conventions in specific fields of labour. However, the minimum age for entry into work should not be less than 15 years and not less than the age of completing compulsory schooling under Article 2 (3) of the Convention or 14 under Article 2(4) for countries "whose economic and educational facilities are insufficiently developed". By Article 7(4) of the Convention "light work" is allowed for children from the age of 12 in a developing country. The minimum age for hazardous work that is likely to jeopardize the health, safety or morals of young person shall not be less than 18 years under Article 3 (1) of the Convention.

**b) UN Convention on the Rights of the Child (CRC), September 1990:**

This is the most valuable treaty in the armoury of human rights law with which to protect and defend the rights of children the world over. Notwithstanding the fact that the Convention is more comprehensive than any other human rights treaty, it has attracted the greatest number of ratifications. This Convention defines a child as below the age of 18 years. It calls states to respect and ensure the given rights to each child within their jurisdiction without discrimination of any kind. By this Convention a child is to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development under Article 32. To achieve a child's right to education, states are to make in accordance with Article 28 primary education compulsory and freely available to all. Every child also has a right to play, rest and leisure under Article 31.

**c) ILO Worst Forms Convention 182 (C182), 1999:**

Under this Convention Child applies to all persons under the age of 18. The Convention Calls for immediate and effective measures to prohibit and eliminate the worst forms of child labour: 1.) All forms of slavery and slavery-like practices, such as child trafficking, debt bondage, and forced labour, including forced recruitment of children into armed conflict; 2.) using a child for prostitution or the production of pornography; 3.) using a child for illicit activities, in particular drug production and trafficking; and 4.) hazardous work.

**International Program on the Elimination of Child Labour (IPEC):**

IPEC was launched in 1992 to progressively eliminate child labour through strengthening national capacities to address child labour problems and promoting a worldwide movement to combat child labour. While IPEC's goal remains the prevention and elimination of *all* forms of child labour, the priority targets for IPEC's action are the *worst* forms of child labour, which are defined in Convention No. 182. IPEC also calls for the provision of alternatives for children and families to ensure that children truly benefit from child labour interventions.

**Time Bound Program:**

The Time-Bound Program is one of the means established by IPEC to help countries fulfil their obligations under ILO Convention No. 182 to take immediate and effective *time-bound measures* to prohibit and eliminate the worst forms of child labour as a matter of urgency, including: prevent the engagement of children in the worst forms of child labour; provide direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration; ensure access to free basic education and appropriate

vocational training for all children removed from the worst forms of child labour; identify and reach out to children at special risk; and take account of the special situation of girls.

Bangladesh has ratified the 1989 United Nations Convention on the Rights of the Child (CRC) and the 1999 International Labour Organization Convention on the Worst Forms of Child Labour but not ratified the Minimum Age Convention of 1973. Though Bangladesh has not ratified this Convention, her domestic legislation prohibits the employment of children in factories below a certain age. It has also begun the process of time-bound program.

### **Suggestion for eliminating or decreasing child labour:**

Ways of curbing child labour is a challenging and worthy task and require financial, moral and political support from all the tiers of the society. In truth, child labour can't be virtually removed from a country such as Bangladesh just now because the problem of child labour is indissolubly rooted in our society, so attempts have to be made in the first place to decrease it.

As mentioned earlier, poverty is the core reason behind child labour as it drives children to involve in employment in order to fight against starvation as well as to supplement the family income, so effective solutions to child labour must be based on the reduction of chronic poverty through broad based economic and social development, with a strong emphasis on human resource development. Nonetheless, child labour is not in all cases a consequence of poverty or even child labour won't be driven out as soon as poverty disappears as there is a huge population of girls and also boys working in domestic labour that are not necessarily linked with economical facts but with patriarchal roles. As such, my contention is that with a view to eliminating or decreasing child labour, along with poverty eradication, child centred educative sensitivity and awareness at political, community and family level is essential.

Take the case of child-centred educative sensitivity at first. To create such kind of sensitivity educated parents, educated family members and an educated community has to be made and they will actually play an important role in the progressive elimination of child labour. In this regard existing schooling process should be borne in mind. Schooling process has to be changed and an upgraded curriculum to be introduced inclusive of basic idea regarding child labour. Besides that, to make education effective, arrangement should be made in the expected modified curriculum around vocational training that would enable students to achieve an employment quickly and easily after finishing their schooling period. In our country another problem is that despite acute willingness to educate children, poor parents send them to work in order to free them from starvation or send them to school but very soon they are dropped out due to the inability of their parents to fulfil other additional costs, like transportation cost, uniforms etc. for attending school. Another reason behind not sending children to school is their reluctance the long time frame of education.

For the effective solutions of the above mentioned problems, school education has to be free; school feeding programme to be initiated; school utensils such as pencils, rulers, textbooks to be offered; arrangement for



transportation to be made and for these a large portion of the budget to be provided. In our country primary education is free up to class five, school feeding services offered and textbooks given without any cost, although the illegal sale of books by school authorities is very common. Again budget provided for education are not wholly used for its designed purpose because of the corrupted leaders. In order to prevent that, national and popular democratic monitoring of financial investments in education must be enriched. Further, from the perspective of our country it is necessary to note here that though in the last 15 years, a huge number of schools have been established, still a large number of schools should be set up in some of the rural areas where there are no schools or there are schools of poor condition.

Then take the case of awareness raising. Education makes a person more conscious than in any other ways. Inclusion of knowledge about child labour in school curriculum may also be used as a method of awareness building. At the same time government and other non government organizations may make people aware through distributing leaflet among the common mass; showing advertisement, movie and short films on the television.

Income generation and employment creation for adults help to reduce poverty which leads to, besides poverty elimination, child-centred educative sensitivity and awareness raising, effective solution of child labour problem.

Imposition of sanctions on the products produced by child labour may help to drive out child labour from the labour market. The products may be boycotted either by consumers or governments and most known recent example is perhaps consumer boycotts of Nike sports gear produced with child labour. In this case the imposition of sanctions by the U.S. Government on the import of products made with child labour in our country may be referred to, which took place in 1993, after the passing of the "Child Labour Deterrence Act" widely known as the Harkin Bill after the name of its initiator, Tom Harkin. This Bill had considerable impact on the garment factory owners of Bangladesh as they employed a large number of underage children. Actually after the passing of the Act, the garment owners felt threatened to lose U.S.A. as the single largest importer of Bangladesh garments, consequently they dismissed a large number of underage children from employment.

It is to be noted that this boycotting procedure without making any arrangement for rehabilitation of children only conceal the employment of children, deprive them of their due wages and place them in more exploitative areas on the streets which are not covered by any law. Similar was and is the situation of the garment child workers after the enactment of the Bill.

So along with boycotting products the child workers have to be rehabilitated as well as child-friendly values have to be developed among some groups of society who very often try to get the benefit of cheap, productive and obedient child workers.

In rural areas employment opportunities in various sectors has to be created so that the villagers are not inclined to go to urban areas for seeking employment which virtually in many cases land them into insecurity, instability and poverty and actually this urbanization and migration lead migrated people to send their children to work in order to free themselves from the unavoidable circumstances of the urban life.

When legislation on child labour are discussed, some issues as regards child legislation are necessary to be pointed out. Policy and legal instruments dealing with other issues such as gender-based violence and child labour are often narrow in focus and do not address the best interests of children experiencing violence. Laws against child labour are applicable only to the formal economic sectors. But most children who work in the informal sector, such as small factories, workshops, motor garage, shops, agriculture or domestic work, are not regulated by law nor are these establishments monitored by any government agency. Again, legislation concerning child labour is proper from the context of prohibiting it but is improper for not implementing the concerned laws. For this reason enforcement procedures has to be strengthened and law enforcement agencies have to be free from any influence. The old archaic laws have to be excluded and according to the changing socio-economic circumstances new laws covering the informal sectors not embraced in the Act at the present time have to be passed. In case of changing the domestic laws government may follow the standards set by the international forum. Based on its constitutional obligation and its commitment to international standards on children (CRC and the Worst Forms of Child Labour ILO Convention No. 182), it is obvious that the government will need to take the lead in pursuing child labour elimination goals, in order to meets it long-term development needs. The most important recommendations are therefore those that relate to the adoption of the establishment of an inter-ministerial National Taskforce on Child Labour and Education, a review and effective implementation of the Labour Act (2006) and the urgent need to increase the capacity of the recently established Child Labour Unit and to ensure that the Unit can bear its responsibilities and function effectively.

Truly speaking, the causes of child labour are complex; the problem can't be driven out through removing poverty or enacting new laws, as such all the above mentioned ways should be taken into account and has to be advanced accordingly. It is also necessary to bear in mind that only the government can play an effective role in the progressive elimination of child labour but in case of awareness raising education programmes, rehabilitation etc. the humanitarian and non government organizations (NGOs) and in terms of financial assistance the donor countries have to come forward as it is impossible on the part of government to tackle all the matters single handed. In a word, just as treatment depends on the proper identification of disease, similarly if the above measures have to be taken in accordance with the aforementioned causes, then only it will help to decrease child labour and ultimately pave the way for child labour elimination from the society totally in future.

**Conclusion:**

Children are the future hope of a nation. Therefore, if they are exploited at a very early age, they would not be able to contribute to the country and would hamper progress. Moreover, children consistently expressed their concerns about the absence of a safe environment, which leads to violence, abuse and exploitation within the family, community, street, work place, and school, in state and non-state institutions and also in the justice system. The current governance deficit in Bangladesh has further aggravated the situation because the duty bearers such as lawmakers, executives, police, probation officers, and even judges remain insensitive to children's rights and fail to provide protection, special care and treatment. In recent years, however, child rights have featured increasingly in policy debates and discussions amongst government officials and NGOs. News reports on violence and torture against children in the print media and in the private TV channels have

increased. Many organizations are also working to sensitize the public so that there is increased awareness of child rights. It is necessary to mention here that the government is committed to protect the child but it lacks depth of understanding and consistent planning. That's why action at the national level is needed now, as timely taken steps can only bring positive impact on decreasing or elimination of child labour from all tiers of the society. But in case of taking action in full conformity with reality, all the factors such as, economic, social, political, cultural have to be taken into consideration. Further, it is not proper in the context of existing social system to refrain children from work which only breeds poverty, rather initiatives have to be taken at first to keep them away from exploitative and dangerous works and to provide appointment letter, identity card to ensure the payment of their due wages and other rights as workers, which other adult workers enjoy, has to be ascertained. In this case we have to pay serious attention to the working children so that they could finish the basic schooling beside light work.

Moreover, child sensitivity approach has to be strong along with adopting multiplier measures. But the good news is that child labour problem has attracted a large concerted attention in recent times and the government, NGOs and some private organizations are, though less than needed, working with a view to solving the problem and consequently the rate of child labour has decreased in a little. Further, Bangladesh is a signatory to, and has ratified, most of the major international conventions related to children, except for the ILO Minimum Age Convention (No.138). Again, it has introduced a number of policies and plans over the years intended to reduce or eliminate child labour.

Bangladesh is obliged under both national and international law to protect and promote the rights and interests of children. The Constitution of Bangladesh and the Children's Act 1974 guarantees basic and fundamental human rights and ensures affirmative action for children. These rights are the guiding principles for formulating policies and laws relating to child development. In conclusion we earnestly hope that as Bangladesh is one of the earliest signatories of the Convention on the Rights of the Child (CRC), therefore these initiatives will be widespread and the affluent, elite countries and international organizations will come forward to help our government and NGOs not only in case of financial assistance but also in the actual performance of the field-level work.

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