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Research Monograph
On
"Prevention of Child Labour in Bangladesh: A Study on the basis of Domestic Law and International Law"

This Research Submitted for the Partial Fulfillment of the award of the degree in LLM (1 Year) Department of Law, Sonargaon University (SU), Dhaka.

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Dedication

This Research is dedicated to my Father & Mother

LETTER OF TRANSMITTAL

To
Naimul Razzaque
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Subject: Submission of Thesis Paper.

Dear Sir,

It is a great pleasure for me to submit the thesis on **"Prevention of Child Labour in Bangladesh: A Study on the basis of Domestic Law and International Law"** While I doing this thesis, I have tried my level best to make this project paper to the latest standard. I think that thesis paper will fulfill your requirement and pleased you. I, therefore, hope that you would be kind enough to go through this thesis paper for evaluation.

I am always be ready for clearance of any part of my thesis.

Thanking you

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CERTIFICATION

This is to certify that the thesis on "**Prevention of Child Labour in Bangladesh: A Study on the basis of Domestic Law and International Law**" is done by A.Q.M. Samsuzzamanin partial fulfillment of the requirements for the degree of LLM (1 Year) from Sonargaon University (SU), Dhaka. The thesis has been carried out under my guidance and is a record of the bonafide work carried out successfully.

……

Naimul Razzaque
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DECLARATION

I do hereby that this Research Monograph on the **"Prevention of Child Labour in Bangladesh: A Study on the basis of Domestic Law and International Law"** have been done by me and this Research is free from all plagiarism and without help of other. I further declare that this monograph is prepared with my own effort and it was not and never submit to any institute for any academic reason.

_____

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ABSTRACT

Child labour is widespread throughout the glove. Bangladesh is another victim of child labour. It damages children's health and general welfare. It creates a major obstacle to developed countries' growth. Children who work can easily drop out of school and increase the rate of illiteracy and nonproductive human. They create a vicious circle of poverty. And they work as an impediment to developing the countries economy. The international conventions like the International Labour Organization (ILO), United Nations Convention on the Rights of the child (UNCRC), and The Universal Declaration of Human Rights (UDHR) are addressed the child labour problem and they are trying to eliminate child labour from the glove. One of the major goals of Sustainable development goals (SDG) and Millennium development goals was to eradicate child labour from every country. This study tries to find the major anomalies to eradicate child labour from Bangladesh. To find out the reason why existing laws are not working properly to eradicate child labour. For this problem, what measures should be taken by the government to eradicate child labour from Bangladesh, is also discussed.

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1.1 Introduction:

A wise man once said, “Today's children are tomorrow's future”. If a country gives proper rights toward the child, they will turn into many precious flowers. A country’s children are the main resource to increase its economic growth, help to develop the country and many more. Now, if we talk about the current world scenario, we will see that children are not well at all. They are suffering from a virus, which can destroy the child and perish our tomorrow’s future. The name of the virus is “Child labour”. Child labour is a buzzword in this new world. It is widespread throughout the glove.

Child labour is not a new phenomenon. It has existed throughout history and in all types of economies. What is rather new is the unprecedented surge in concern about the issue over the past decade. There are diverse views as to the reasons for this development. The emergence of the rights-based approach to development, the growing emphasis on poverty reduction, the intensifying competition due to globalization of trade and investment flows, and the perceived implications of the latter for unskilled workers in developed countries, is among reasons often noted by observers.

Whatever the reasons however, the rise of child labour to global prominence is a welcome development that offers a window of opportunity to address the plight of the most vulnerable segment of the population in any society, namely the laboring children.

According to the international labour organization (ILO), COVID 19 health pandemic crisis pushed already 152 million children into child labour, 72 million of which are in hazardous work.1 It is one kind of exploitation toward Children, that acts as a bar, which deprives children of recreation, education, and many more things, where a normal child

can get. If a child is deprived of his beautiful childhood, he will later have various problems. In this new world, child labour is increasing like a pandemic. Many countries are dealing with this problem. Bangladesh is one of them, which also deals with this problem.[1]

1.2 Research Question:

This Study helps me to critically evaluate the present scenario of the national child labour policy in Bangladesh. Therefore, the research questions will be set:

1. Do the existing laws suffice to stop child labour in Bangladesh?
2. Is society concerned about the negative effect of child labour?
3. Are the labour organizations from home and abroad acting appropriately to establish child rights?

1.3 Research Objective:

1. Child labor for the poor countries like Bangladesh is now a crucial issue for the concentration of Government;
2. The study of child labor or worker is necessary for social, political and economical knowledge where they have been deprived of their daily life.
3. It is also necessary for the illiterate parents who forced their children to earn money;
4. The society will get the benefit from the study where the child would not be deprived from their every body's right;
5. It will specify the problems and limitations in Bangladesh Laws.

[1] Alam, M. S. (1996). Protection of children righrs:National and global Approach. University studis, Part-F Vol-VII(1) , pp. 83-89.

1.4 Significance of the Study:

This dissertation would be helpful for policy making in our country. This dissertation provides a good idea which is important for public awareness to establish the concept of "Show a Child Love & Care, Child Labour Is Not Just Fair". This research creates a good information related to the present situation and legal aspects of child labour. This paper will help people to thinking about how can we decrease child labour in our modern society. For this reason, I should say this research provide many solutions to reduce child labour, abuse and exploitation which is mandatory for building a civilized society.

1.5 Methodology of Research:

Research methodology is a guideline or system of methods used to conduct the research and methods are the technique to accomplish the collection of information. I have followed both quantitative and qualitative research methodology to conduct my study as quantitative and qualitative investigates the reasons behind problem. Among the data sources concerned law, relevant documents, Newspaper, NGO reports, magazines, website and other e-sources are mostly visited. Actually, I have been used both secondary and primary data for clear understanding about Child Labour in Bangladesh and also existing Laws of Bangladesh related to Child Labour in Bangladesh. In this research primary data collect to the book and the secondary data collect to the Newspapers, NGO reports. Analysis interpretation a summary of findings is completely on primary data whereas the recommendation and conclusion are based on primary and secondary data due to the nature of the study. This research is mainly qualitative in nature. This research is chaptalized by the report of various kinds of NGO and book and journal.

1.6 Literature Review:

Johannes Norpoth, Lukas Groß, and Rahima Aktar, in their article "Child Labour in Bangladesh- An Analysis of Gaps and Weaknesses of The Existing Legal Framework". They tried to focus on the weakness of the legal framework in Bangladesh. Also, they tried to find out the implementation of the International Convention. They searched for the root cause, why Bangladesh still faces the challenge of having a large number of children that are working under conditions considered as child labour, they found that the prime reason is poverty Moreover, they found out some ways to eradicate child labour in Bangladesh by amending the legal framework. Therefore, a possible conclusion that can be drawn from their work is that they did not ultimately focus on social prejudice and the eradication of child labour.[2]

The "National Child Labour Elimination Policy 2010" gives a vast idea about the elimination of child labour from Bangladesh. In this policy, they find out the flows, gaps of our legal frame.[3] However, this policy did not give any specific idea about the social prejudice about child labour, As we know the Child labour mainly derive from social prejudice, and also did not mention the Vicious Cycle of Poverty or Demographic Dividend. But I thought that it is adequate and a lot of information is included.

Khakshour, Ajilian Abbasi, Sayedi, Saeidi, Khodaee in their "Child labor facts in the worldwide: A review article". They only tried to focus on the definition and what the international convention told about child labour. This article has not focused on child labour.[3] However, it connected with my Topic. The "International Trade Union

2 Norpoth, Johannes & Groß, Lukas & Aktar, Rahima, 2014. "Child Labour in Bangladesh - An Analysis of Gaps and Weaknesses of the Existing Legal Framework," IEE Working Papers 204, Ruhr University Bochum, Institute of Development Research and Development Policy (IEE).

[3] Khakshour, A., Ajilian Abbasi, M., Sayedi, S. J., Saeidi, M., & Khodaee, G. H. (2015). Child labor facts in the worldwide: A review article. International Journal of Pediatrics, 3(1.2), 467-473.

Confederation" published an article and it mainly focused on the different international convention. It discussed the trade Union whether it is related to child labour or not. What ILO, ITUC, ECLT, etc deals with, and Role of Global Union in the child labour sector. Moreover, it wanted people to stand against the shortcomings to establish child labour rights.

Sumaiya Khair, in 2005 published an article, named "Child labour in Bangladesh: a forward-looking policy study". The researcher of this article mainly focused on the existing policy to find out the problems or gaps from the laws regarding child labour. It clarifies the consequence of child labour, identify the main determinants of child labour, and finally, the researcher suggested some very important recommendation how to eradicate child labour.[4] They suggest that government should develop policy and take important legal measures, to promote quality education; the government must abolish gender discrimination. This article is greatly connected with my topic. They address every possible gap.

1.7 Scope & Limitation of the Study:

Research is not only an elaboration for that topic; it also comprises the concepts, analysis, effect, recommendation of that study. The researcher is trying to discuss this topic, though also having my lacking. Every Research study is some limitations. So, this Research is not the exception of this limitation. I have found limited information in the books, journals, articles. The main limitation is time binding work. However, there are some vital limitations which I had to encounter when I prepared this research monograph, such limitations are:

[4] Sumaiya khair, ' child labour in bangladesh: a forward-looking policy study' [2005]

a) Limited access to resources.

b) Rare access to relevant information

c) Time management

d) A little access to experts for editing, analyzing and guidance.

1.8 Chaptalization:

Chapter – 1: General Introduction

Chapter – 2: Conceptual Analysis and Background of the Study

Chapter – 3: Present Scenario of Child Labour in Bangladesh

Chapter – 4: Legal Framework for Child Labour in Bangladesh and international perspective

Chapter – 5: Conclusion & Recommendation

CHAPTER – 2

Conceptual Analysis and Background of the Study

Taking a look at the reality of the lives of working children reveals both the dangers for children and the potential negative consequences of child labour to the development process. Working long hours with heavy and dangerous equipment, lack of nutritious food, lack of access to education and recreation, regular verbal and physical abuse and exploitation at their work place and sometimes by their family, and regular injury hinder their physical and psychological growth.[5] Clearly, such conditions impede a child's development to a human being that is capable of using its potentials for his/her own or the society's well-being. Ultimately, lack of education hampers the opportunities of working children to find well-paid jobs later in life and due to health problems working children often lose their employment capability in a very early age. Children used in child labour come from already poor families; furthermore, these conditions are highly likely to per- petite poverty for their own families. Most of the case children are pushed away from the family, sometimes for their survival, or to help the family they have to engage with work. So here are some root causes why does child labour happen:

2.1 Child labour

Child labour refers to the employment of children in any work that deprives children of their childhood, interferes with their ability to attend regular school, and that is mentally, physically, socially or morally dangerous and harmful. This practice is considered exploitative by many international organizations. Legislation across the world prohibit

[5] A study on urban districts in Bangladesh confirmed both severe physical and psychological health problems of child labourers, Mohammad Nashir Uddin/Mohammad Hamiduzzaman/Bernhard C. Gunter, Physical and Psychological Implications of Risky Child Labor: A Study in Sylhet City, Bangla- desh, Bangladesh Development Research Center (BDRC) Working Paper No. 8, July 2009, pp. 10-11.

child labour. These laws do not consider all work by children as child labour; exceptions include work by child artists, family duties, supervised training, certain categories of work such as those by Amish children, some forms of child work common among indigenous American children, and others.

Child labour has existed to varying extents, through most of history. During the 19th and early 20th centuries, many children aged 5–14 from poorer families still worked in Europe, the United States and various colonies of European powers. These children mainly worked in agriculture, home-based assembly operations, factories, mining and in services such as news boys. Some worked night shifts lasting 12 hours. With the rise of household income, availability of schools and passage of child labour laws, the incidence rates of child labour fell.

In the world's poorest countries, around 1 in 4 children are engaged in child labour, the highest number of whom (29 percent) live in sub-saharan Africa. In 2017, four African nations (Mali, Benin, Chad and Guinea-Bissau) witnessed over 50 percent of children aged 5–14 working. Worldwide agriculture is the largest employer of child labour.The vast majority of child labour is found in rural settings and informal urban economy; children are predominantly employed by their parents, rather than factories. Poverty and lack of schools are considered as the primary cause of child labour.

Globally the incidence of child labour decreased from 25% to 10% between 1960 and 2003, according to the World Bank. Nevertheless, the total number of child labourers

remains high, with UNICEF and ILO acknowledging an estimated 168 million children aged 5–17 worldwide, were involved in child labour in 2013.[6]

Child labor remained a major concern, with an estimated 7.9 million children working in the formal and informal labor sector. Among them over one million are considered to be engaged in hazardous jobs and the risk. Recently, ship breaking yards have been identified by the Government as another hazardous place of work for children. A 2008 research report identified that at least 25% of ship breaking workers are children twelve years. Such work is extremely hazardous given the high number of accidental deaths, disability and exposure to harmful and toxic substances in the yards. The reports recommended the government enhance labor Act to ensure no child below 16 years can engage in hazardous work and finalizes the adoption of the ship breaking policy paper to put in place guidance and mechanisms to improve and monitor ship yards. (State of Child Rights in Bangladesh-2006, December-2007)[7]

2.2 Poverty

Another very important cause of child labour is Poverty. Because of this poverty children are always being exploited, which deprives children of education and human skills. In adult years, poor children grow up as unskilled workers and earn low salaries. Therefore, food insecurity continues and family members are forced to send their kids to work and a child-work trap is generated and is called a vicious circle of poverty.[8]

[6] From Wikipedia, the free encyclopedia
[7] Alam, M. S. (1996). Protection of children righrs:National and global Approach. University studis, Part-F Vol-VII(1) , pp. 83-89.
[8] Joydeb Sasmal, Jorge Guillen, ' Poverty, Educational Failure and the Child-Labour Trap: The Indian Experience' [April 23, 2015] 270-280, 272

2.3 Push and Pull Factor

It is one of the main reasons for child labour. Bad quality schooling, lack of relevance in classes, language used, physical accessibility problems, and the absence of school in the child's community are factors that "push" children out of school. And become child labour. Whereas, economic and other poverty-related problems that "pull" kids out of school. Families often rely on their children to receive additional income and therefore, under inevitable conditions, tolerate child labour.[9]

2.4 Society

Society is the factor of child labour. We can see many classes in society. Like Upper class, Middle class, and Poor. The upper class and middle class somehow manage to live with it. However, the poor class is abused by those classes.[10] Upper and middle classes people take the poor child to do informal work in their house like domestic work, household chores etc. Sometimes those household child workers are abused by those classes.[10] Girls are mainly sexually abused and compelled to work without nourishment and exceptionally low wages.[11] If those upper and middle-class families want to help the poor family, they can easily do it and their child to continue the study.

2.5 Education

Education is one of the main factors in child labour. Every child should get at least primary education. Education must be accessible to all. Whenever a child will know the demerits of child labour. He or she will not go into the workplace. Quality education must be accessed to all children. In 2011 ASK filed a writ petition against the Ministry of

[9] What is the Child Labour and pull and push factors?' (Blogspot.com February 21, 2017)

[10] Taqbir Huda, ' Why child domestic workers are prime victims' (The Daily star July 10, 2017)

[11] Angshuman Dutta , ' Child labour in Bangladesh – A great social evil https://www.sentinelassam.com/news/child-labour-in-india-a-great-social-evil/' (Sentinel Digital Desk 2016) < https://www.sentinelassam.com/news/child-labour-in- india-a-great-social-evil/> accessed 05 may 22

labour and manpower to establish the right to education. The court observed that " A nation is duly bound to provide all facilities for the child to grow in a healthy atmosphere, to flourish in education, and to better the lives of their families as well as the interest of the nation"[12] Education gives children opportunity to broaden their abilities help to eradicate child labour.

2.6 Government

The main purpose of the government is to ensure the basic needs of the people. But when the government is failed to fulfill the needs. Then children go to the workplace, to help the family to survive and they fulfill their needs by working in the industry. Although education is a basic need that must be provided by the government, they are deprived of good schooling. Which are fundamental principles of the constitution.[13]

[12] Ask vs Bangladesh 63 DLR (2011)
[13] Bangladesh Constitution art 17

CHAPTER – 3

Present Scenario of Child Labour in Bangladesh

Bangladesh is a developing country. Gradually it's growing towards the success. But it is a great hindrance to development, as a large portion of children group become engage with working sector without attending the school. Day by day the number of working children alarmingly increased and they involve in all sorts of work: industrial, agriculture, construction and many hazardous works. Among them large portion of children (46%) are engage in agriculture sector, 36% are in service and 19% are in industry work both the girls and boys are engage in work.[14]

3.1 Social Condition of our Country to the Child:

In Bangladesh around 55 million people are considered to below the poverty line. As it is with most child labor, the primary cause for it in Bangladesh is poverty. For many, forcing their children to work is the only way to survive. Education is also hard to get to. Even if a family can afford to feed their children, they may not be able to afford education, which, though free until 5th grade, has the cost of transportation and uniforms.

In recent years child labour in Bangladesh has increased alarmingly. Traditionally, many children have always worked in village agriculture, but the numbers employed in urban industrial, commercial sectors and household has risen sharply. Working children are a neglected group in Bangladeshi society. They are seen as part of the floating population and are not included in the national census.[15]

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[14] Md. Kamruzzaman and Md. Abdul Hakim: A Review on Child Labour Criticism in Bangladesh: An Analysis

[15] Issue No: 261 November 11, 2006, Shishuprakash, an initiative of Mass Line Media Centre and UNICEF.

Laws in Bangladesh do not restrict the employment of children in all kinds of industry except where the nature of work is very strenuous. In Bangladesh, urban working children either live on the street or in overcrowded slum and squatter settlements. According to a survey there are 400,000 children under the age of 15 working in urban areas, which is 12 per cent of the total urban labour force. They work in industry, transport, commerce, domestic service, metal & leather factories and construction and in garment factories.[16] In spite of domestic and international laws and Conventions in favour of children, they can be found working in garment factories, hotels, brick making, biri factories, mechanical workshops, match factories, agricultural work, domestic work, and as garbage collectors and touts on buses and tempos. Children also work in small shops, tea stalls, handloom and bin' factories and the fishing industry. Most working children do not have the opportunity to attend school.

3.2 Child Labour Situation in Bangladesh

Statistical surveys confirm that it is a common scenario in Bangladesh for a child to work for pay, or profit, or to support a family farm or business. The country's most compare pensive statistical study conducted on this issue so far revealed[17] that in 2002/2003 7.4 million children aged 5-17 were working children out of which 3.2 million were working under circumstances defined as child labour. The survey also found 1.3 million children engaged in hazardous work.[18] A more recent study confirmed that child labour remains widespread in Bangladesh. The study estimates that 3.55 million children aged 7-14 years and 2.8 million children aged 15-17 years were "in employment" – a term that covered

[16] ibid
[17] Bangladesh Bureau of Statistics National Child Labor Survey (NCLS) 2002-2003, retrieved from http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=746
[18] Ibid.

both employment for pay or profit and work in the family business or farm.[19] The study estimates a total of 5.1 million children in child labour. This included more than 1.3 million of 5–11-year-olds engaged in any kind of work. Moreover, it comprised 1.7 million of 12–14-year-olds working regularly for more than 14 hours per week, thus, working for more hours than what could still be considered "light work". Finally, it included 2 million of 15–17-year-olds performing haz- ardous work. It should be noted, however, that the worst forms of child labour other than hazardous work, such as slavery, work in prostitution or illicit activities, could not be considered by the survey due to data limitations.[20] According to the study the likelihood of children to be working is similar in rural and urban areas of Bangladesh. Given that most of the population lives in rural areas, it is not surprising that by total numbers the majority of the working children live in rural areas. However, the percentage of working children is similar in rural and urban areas. The study confirmed that the rate of children working rises with age, reaching 20% of four- teen year-old children.[21] Similarly, the hours spent working increases with age.25 In gen- eral, the study found a higher percentage of boys working than girls.[22]

Some findings of the study on the situation of those children not attending school deserve particular attention. Compared to other developing countries, Bangladesh has a strikingly high percentage of children working outside of their family as paid employees, domestic workers, apprentices or as self-employed persons among these children.[23] For paid em- ployees or domestic workers aged 7-14 the average weekly working time exceeds 45 hours. In general, within the group of children not attending school, working long hours is

[19] Understanding Children Working (UCW) Programme Country Report on Bangladesh, July 2011, UWC Programme, Rome 2011
[20] ibid
[21] ibid
[22] Girls, however, are more likely to be found helping intensively in household responsibili- ties which considerably reduces the time available for education, p. 16.
[23] Cf. review of studies, ibid. pp. 30-33.

particularly common in the manufacturing and services sectors where children have an average working time exceeding 43 hours a week. Compared to this, work in the agricultural sector appears less time intensive.[24]

A number of sector-based baseline surveys and rapid assessments, by the Bangladesh Bureau for Statistics, the ILO and non-governmental organizations (NGOs), which were conducted between 2002 and 2008, point to particularly harsh working conditions for children in certain economic sectors. In establishments for battery recharging and recycling, establishments for welding, garages for repairing automobiles, the road transport sector, the dry fish industry or the ship recycling industry these studies revealed that children often work without protective gear, suffer from work-related illnesses or injuries and are subject to verbal and physical abuse.[25] Clearly, work in the transport sector, such as rickshaw pulling, or work in garages entail work with heavy loads and dangerous equipment which are characteristics of hazardous work. Moreover, the ILO study "Working Children in Dry Fish Industry in Bangladesh" revealed a high number of cases of forced labour for children in this sector in some areas of the country. Thus, apart from hazardous work also unconditional worst forms of child labour are observable in this sector.

In addition, the situation of children engaged as domestic workers has attracted particular attention. According to an ILO study more than 270,000 children aged 6-17 are employed in mainly urban households of Bangladesh. 78% of them are female.[26] Based on the average working hours almost all child domestic workers perform hazardous work since

[24] ibid
[25] ibid
[26] Tracy Adam-Badr, Exploitation of Child Domestic Workers in Bangladesh, Global Centre for Women and Justice at Cornell Law School, January 2010, p. 6 highlights issues of discrimination against girls, like female seclusion as a preparation for early marriage, that are associated with the work as child domestic workers.

99% of child domestic workers work 7 days per week with an average of 9 hours per day. Another major problem is severe exploitation, physical and sometimes sexual abuse by the employers. Child domestic work is invisible as the children work inside the house. Often confined to their employers' premises, it is difficult to know their daily situation, even by close neighbors. It is particularly worrisome that sometimes children are engaged through a middle man or recruiting agent a practice that can be considered child trafficking[27] with the effect that some parents do not know about the final working place and the living situation of their children. Lack of a full-scale registration system makes child domestic workers untraceable for public authorities. Ultimately, employers that committed harsh abuses are often not prosecuted since cases are dismissed or not fully investigated out of respect for the social reputation of the employer.[28]

The relevance of the informal sector in Bangladesh is one of the reasons why coercive trade measures addressing only formal, export-oriented sectors like the garment sector proved not to be an effective means to address the issue of child labour. In the early 1990s garment industry of Bangladesh became the target of boycott threats due to child labour employment.[29] In reaction to demands from trade unions, human rights groups, consumer and religious groups under the umbrella of Child Labour Coalition, the so-called Harkin Bill was proposed to the United States senate. According to the bill the importation into the United States of manufactured or mined goods that were produced by children under the age of fifteen was to be prohibited.[30] Although the Harkin Bill was never passed, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) responded by

[27] Tracy Adam-Badr, 2010, (see footnote 35), pp. 13 ff.

[28] Cf. incidences cited in the judgement of the Supreme Court of Bangladesh, 2010

[29] Sharmin Aktar/Abu Syead Muhammed Abdullah, Protecting Child Labour in Bangladesh: Domestic Laws versus International Instruments, Bangladesh E-Journal of Sociology, Vol. 10, No. 1, January 2013, pp. 153-172, mention official statistics from 1992 according to which 30% of the workers in Bang- ladesh's garment factories were children, at p. 159.

[30] Cf. for details on the bill and the ensuing process Michael E. Nielson, The Politics of Corporate Social Responsibility and Child Labour in the Bangladeshi Garment Industry, International Affairs, Vol. 81, No. 3 (2005), pp. 559-580

urging its members to remove child Laboure's from their work- places. It was reported that 40,000 to 50,000 children Laboure's were removed from the industry. Having lost their work, but with their families still depending on additional in- come and without being given an alternative through education programmers, many of these children changed to more hazardous jobs in the informal economy, including pros tuition.[31]

[31] Cf. Franziska Humbert, The Challenge of Child Labour in International Law, Cambridge 2009, p-369.

CHAPTER – 4

Legal Framework for Child Labour in Bangladesh and International Perspective

All ratifications mentioned above underline that Bangladesh generally vows to address the problem. However, beyond the ratification of international conventions, it is important for a country to indeed establish a coherent legal framework at the national level and to enforce the respective laws and regulations in a systematic way. The following sections summarize the current national legal framework with regard to child labour, including references to its evolution over time. The country signed and ratified relevant international conventions and addressed the problem through national laws and policies. How- ever, a closer look reveals that there remain gaps in the legal framework for child labour. The following sub-sections will summarize Bangladesh's commitments with regard to child labour under international relevant provisions on child labour on the national level.

4.1 Laws to child labour in Bangladesh

4.1.1 Bangladesh Labour Act 2006

The Bangladesh Labour Act 2006[32] replaced and consolidated 25 labour laws and has incorporated many important labour rights aspects. It can be considered as the most remarkable national law with regard to child labour.[33] While focusing on other aspects of labour law, this amendment also introduced some new provisions on child labour.[34] Pursuant to Section 2 (63) of the Labour Act a child is defined as a person who has not

[32] Bangladesh Labour Act 2006 (Act No. 42 of 2006).
[33] Sharmin Aktar/ Abu Syead Muhammed Abdullah, 2013, p. 164.
[34] Bangladesh Gazette Act No. 30 of 2013; An Act adopted to amend further the Bangladesh Labour Act, 2006 (Act No. 42 of 2006).

completed his fourteenth year of age. For young persons between fifteen and eighteen years of age the Act introduces the category of an 'adolescent'.[35]

The core provision on child labour is Section 34. Section 34 (1) prohibits the employment of children in any occupation or establishment. The prohibition is reinforced by Section 35 which prohibits parents or other guardians of a child to make any agreement on the use of the services of a child in any employment. However, Section 44 provides an exception for light work conducted by children aged twelve or older, provided their physical and mental development or their education, in particular their school attendance, is not impaired by such work.

Section 34 (2) details the conditions for the employment of adolescents. While at work every adolescent has to carry a reference to a certificate of fitness for the work he or she is employed for. The certificate has to be issued by a registered medical practitioner and shall remain valid for a period of twelve months. Any fee for the certificate has to be paid by the employer (Section 37). Moreover, the Labour Act itself specifies certain forms of hazardous work for which adolescents may not be employed. Strictly prohibited are cleaning, lubricating or adjusting any part of machinery which is in motion, Section 39 (3). In general, work on hazardous machines is only permitted if the adolescent has received adequate training or is adequately supervised, Section 40. In addition, employment of adolescents for work under ground and under water is prohibited, Section 42. Section 41 details the permissible working hours for adolescents which affords protection against hazards from extensive work.[36] In line with its obligation under Section

[35] Section 2 (8) Labour Act 2006.

[36] Night shifts are prohibited, Section 41 (3), maximum working hours are 7 hours a day and 42 hours a week in regular establishments and 5 hours a day and 30 hours a week in mines or factories, Section 41 (1), (2), and working overtime must be limited to 48 hours a week in regular establishments and 36 hours a week in mines or factories, Section 41 (4).

39 (1) the government has specified a list of other types of hazardous work which, according to Section 39 (2), no adolescent shall be assigned to perform. The list comprises 38 economic sectors in which working conditions that are hazardous to children are prevalent.[37]

Child domestic servants often work for more than 43 hours a week, are often confined to house of the employer, and often victims of verbal, physical and sexual abuse. Thus, work under conditions that are commonly considered as hazardous[38] is a normal scenario in the sectors excluded by the Labour Act. The issue of lack of protection of child domestic workers has already been brought before the Supreme Court of Bangladesh. In response to a petition filed by the Bangladesh National Women Lawyers Association, the Supreme Court harshly criticized the government for not taking action supporting child domestic workers. Explicitly considering the protection of child domestic workers to be required by the fundamental rights pertaining to children under the Bangladeshi Constitution, the Supreme Court directed the government to take binding measures for their protection which shall include a widening of the scope of application of the Labour Act to cover all domestic workers. However, the revision of the Labour Act in 2013 did not modify the respective provision. Apparently, the government of Bangladesh failed to use the revision process to follow the ruling of the Supreme Court and to close the gap accordingly. Moreover, the Labour Act does not address the problem of child labour in the informal sector in a systematic way. In fact, the exclusion of small agricultural farms, domestic work and small-scale family businesses means that those sectors with significant portions of informal work are kept outside the legal framework. Furthermore, the Labour Act does

[37] ibid
[38] ibid

not include extensive enforcement mechanisms.[39] Under the head of the Ministry of Labour and Employment (MoLE) the Office of the Chief Inspector of the Department of Inspection for Factories and Establishments is equipped with 183 labour inspectors tasked with the enforcement of the rules of the Labour Act and other labour laws. Apparently, this limited number of inspectors is insufficient to monitor the enforcement of all labour laws throughout all Bangladesh, let alone the relevant provisions on child labour. Since child labour is far from being the only labour law issue in the country it is questionable whether official monitoring through state inspectors is a viable enforcement mechanism. An important step to enable the enforcement of core provisions of child labour law, such as age limits, is the enactment of the Births and Deaths Registration Act 2004 which allows a clear determination of age of new born persons.

4.1.2 Children Act

The national legal framework for child labour is complemented by the new Children Act which was enacted in 2013. It replaces the old Children Act 1974.[40] Under the Children Act 1974 a child was defined as a person under the age of sixteen years.[41] It sought for protection of children from economic exploitation by setting forth different forms of sanctions, imprisonment or fines, inter alia for employing children for the purpose of begging[42] or putting children to the risk of seduction, sodomy, prostitution or other immoral conditions.[43]

[39] ICF International, 2012, p. 15.
[40] The Children Act 1974 (Act XXXIX of 1974).
[41] Section 2 (f) Children Act 1974.
[42] Section 35 Children Act 1974.
[43] Section 44 (2) Children Act 1974.

Compared to its predecessor the new Children Act 2013 provides for a more comprehensive protection of children.[44] The new law is based on the norms of the UN CRC and has been designated as a "milestone for children in Bangladesh". The Children Act 2013 is the first national law providing the opportunity for children to use legal instruments for their protection. A child is now defined as a person below the age of eighteen according to Section 4. A key element of the law is the penalization of certain action with strong sanctions, such as possible imprisonment for forcing children into begging or supplying drugs or arms to children and criminalization of maltreatment at any kind of work.[45] Other progressive steps towards monitoring and enforcement of the act are the requirement to establish a "Child Welfare Board" at the national level and to make a "Child Desk' available at every police station in the country. The "Child Welfare Board" shall concentrate on monitoring the compliance with the rights of the child. Monitoring the child labour situation in Bangladesh is therefore one of its main tasks.

In sum, the adoption of the new Children Act is a significant progress. Especially the introduction of mechanisms like the "Child Welfare Board" and the "Child Desk" has the potential to improve the situation of children in Bangladesh and could have a positive impact on the child labour situation in the country. However, this impact can only be achieved if the government indeed implements these mechanisms and if the respective institutions can and do carry out their assigned tasks effectively.

4.1.3 Human Trafficking Deterrence and Suppression Act 2012

The government of Bangladesh made an important progress in the abatement of the worst forms of child labour with introducing the Human Trafficking and Deterrence and

[44] Up to the present there is no English translation of the Children Act 2013 available and therefore a profound analysis is not possible.
[45] United States Department of Labor, Bureau of International Labor Affairs, 2013, p. 48.

Suppression Act in 2012.[46] This act shall prevent und suppress human trafficking, including labour trafficking, and focuses on the internal and transitional human trafficking.[47] The decision to enact this law is another step to implement international guidelines as child trafficking is one of the worst forms of child labour. The Act provides massive penalties which reach from fines over imprisonment to the death penalty. In 2012 the government agreed also on a National Plan of Action which shall implement the Act.[48]

4.2 Case Reference: Litigation regarding child labour

4.2.1 Case-1

Child Rakib, a 12 years old boy was a worker in a garage. Because of their poor family situation hedrop soutthe school and joins as worker in a garage. Rakib with his mother and his younger sister Rini (9) lived in a house in Tutpara, Central Road, Khulna. Though he works hard but owner did not pay him duly. For any simple mistake he had to suffer the torture. He couldn't tolerate such torture and decided to work other garage. Shorif, the owner of the garage was so much angry on this and make a plan with his cooperator to kill Rakib. August, 3, 2015, Shorif called Rakib to his garage and revile him. One of the other workers of garage holds Rakib and laid down him and grasps a compressor pipe on his rectum and supply the air. Rakib's abdomen began to gummy. He constantly shouted to release him. Local people come and take Rakib to the nearby clinicbu this condition was so serious so that the doctor referred to the Khulna hospital. But he died on the way. Doctor said that because of pumping so much air his guts and lung was dissipate.

[46] ibid
[47] Fifth State Party Periodic Report under the Convention of the Rights of the Child, 2012, p. 59.
[48] ibid

4.2.2 Case-2

Shagor Barmon, a nine years old boy was work in Jobeda Textile Mill at Rupganj, Narayanganj. Factory manager (administration) Nazmul Huda, production manager Harunur- Rashaid and with other line man killed Shagor in the factory in 24 July 2016. His father gives the statement that the manager almost regularly uses bad language to Shagor. Sometimes Shagor protests against such behavior. For reason the manager killed him.

4.2.3 Case-3

Here, the right one is an 11 years school going boy and the left one is a hawker. This picture was taken from mirpur 1, kolawalapara. After some discussions the left one shakil told that his father dead while he was 5 years old. He just read for two years in a NGO led school and he knows just how to write and read. But due to extreme poverty he dropped out from school and started selling ‘Dalpurii’ which is made by his mother. And he has two sisters. His family is maintained by his income and his mother’s housekeeping income. I asked him ‘do you want to read?’ his straightforward answer was ‘will u do my work?’ I was speechless. And during school time he sells well, so that he has no option to change his work time. This work is light, but he has no alternatives until the government gives the disadvantaged easy access to schooling with proper incentives. Here lies the question of Trade-off.

4.3 Child labour under International Law

Bangladesh has signed and ratified many international treaties and conventions based on child labour to take the action to eradicate child labour.

4.3.1 International labour Organization (ILO) Convention

The most important convention to eradicate child labour is the ILO convention. International conventions play a vital role to eradicate child labour from every state of the glove. In 1919, the international labour Organization (ILO) was founded. But it started to focus on child labour in the year 1999 Convention no 182. The main objective of this convention was the prohibition and elimination of the worst form of child labour.[49] It stated that the minimum age for work is 15 years. The minimum age for hazardous work is 18. Article three of this convention; specify the worst form of child labour. According to this article Child Slavery, Trafficking of Children, forced labour, Child Prostitution, Child for illicit activities and works which are likely to harm the health of a child are defined as the worst form of child labour. Article 6 stated that those who have ratified this convention should take action to eliminate the worst form of child labour from its state.[50] Article 7 stated that the measure taken by the state must be effective and time bound.[51]

4.3.2 United Nations Convention on the Rights of the child (UNCRC)

The United Nations Convention on the Rights of the Child was drafted in 1989. It was rapidly ratified by almost every country. Bangladesh is one of the countries, which ratify this convention in its first year. The main objective of this convention was to recognize and ensure the right of the child. Also, make the way for the child to grow up in peace, dignity, freedom, etc.[52] In this convention, 3 core principles arrived. Those are Non-discrimination, admiration for the best interest of the child, respect for the views of the child. In this way, it protects the children's rights. This convention deals with some important sections. Those are: article 1 dealt with the age of the child. Those who are

[49] ILO Convention 1999 s 3,6
[50] ibid
[51] ILO Convention s 7
[52] Together scotland , 'UN Convention on the Rights of the Child

below the age of 18 will be considered as a child by this convention. Article 28 ensures the right to free, compulsory, and primary education. Article 32 stated that Children should enjoy protection. Article 33 is to prohibits child prostitution.[53] All are signed and ratified by Bangladesh.

[53] 7 see also UNCRC

CHAPTER – 5

Conclusion & Recommendation

5.1 Conclusion

Children are the future of a nation and so if they are exploited, they would not be able to contribute in the country's welfare. Moreover, children consistently expressed their concerns about the absence of a safe environment which leads them to violence, abuse and exploitation within the family, community, street, workplace and school. They are victimized randomly in their workplaces across the country. Child labour is a saying during the last decade. This problem is mostly seen in developing countries. Bangladesh is a developing country. So, it is very hard to eradicate child labour from Bangladesh. For mental and physical growth, child labour is a serious obstacle. There are many factors, which act as a bar to solve this problem. Push and pull factor is one of them. In a developing country, almost every government always failed to ensure basic rights. Children in Bangladesh are deprived of fundamental rights like education, nutrition, health, clean water, sanitation etc. They are exploited in every sector. Around 20% of people are living below the poverty line in Bangladesh. To survive this modern world everyone has to do something. Children's rights are abused because of poverty, ignorance, lack of social security, Knowledge, and prejudice. Because of that condition, a child from a poor family must work; sometimes they are pushed away to work and contribute to the family. There arises a relation with the vicious circle of Poverty. If someone falls in this circle, it is hard to come up from this. Therefore, the parents must pay attention to their life and control the birth rate to reduce the number of members of the family. The child labour problem not only creates economic problems in a country but also creates social problems. So, to eradicate child labour socio-economic development is largely important,

social awareness is another factor, and also the government should follow the existing laws and international conventions, and properly implement those laws in the whole country.

5.2 Recommendation:

To eradicate child labour and to protect the rights of the child in Bangladesh, I stated the most effective integrative recommendation and suggestion here:

1. Since we know that Poverty is the main reason for child labour, the government should create job opportunities for a poor family to continue their lives. And whenever parents will get this opportunity, they will never want their son or daughter to be poor like them, so they will send their children to school. In this way, the child will get the chance for good schooling.

2. While our existing laws have some anomalies, the government should amend the national laws, and extent the minimum age of child labour, not less than 15 years (ILO CONVENTION), no matter it is formal or informal sector, light or hazardous work.

3. After the amendment of the laws, the government must ensure the proper implementation of the laws to the whole country. And whoever violates the law should be punished.

4. The government should start a campaign in every Thana/ District, to let the people know about the worst consequence of child labour and education. Whenever they will be informed, I think they will not let their child work instead of proper schooling. Mass media would be the best way to spread the consequence. In 2017, USA founded Child Labor Improvements in Bangladesh (CLIMB). The main purpose of this organization is to improve society's awareness. Which is very much important to eradicate child labour. Although it is no implemented properly.

5. The government should reduce all kinds of costs to achieve universal Primary education by Millennium development goal. By reducing the cost, education will be accessible to all.

6. The government should provide Bangladesh Border Guard proper or police, proper surveillance tools to trace the child trafficker.

7. The government should ensure that employers in the establishment should not employ any child in any kind of hazardous work.

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