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.

Prepared For:
Department of Law
Sonargaon University (SU), Dhaka

Supervised By:
Naimul Razzaque
Lecturer
Department of Law
Sonargaon University (SU), Dhaka

Submitted By:
Abdul Gani Shikder
ID: LLM2302029008
Program: LL.M (1Year)
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
Lecturer
Department of Law
Sonargaon University (SU), Dhaka.

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

Abdul Gani Shikder
ID: LLM2302029008
Program: LLM (1 Year)
Department of Law
Sonargaon University (SU), Dhaka.

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 **Abdul Gani Shikder** in 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
Lecturer
Department of Law
Sonargaon University (SU), Dhaka

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.

_____

Abdul Gani Shikder
ID: LLM2302029008
Program: LLM (1 Year)
Department of Law
Sonargaon University (SU), Dhaka.

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Abdul Gani Shikder
ID: LLM2302029008
Program: LLM (1 Year)
Department of Law
Sonargaon University (SU), Dhaka.

ABSTRACT

Bangladesh is a deeply populated country with population about 167 millions. In this country fifty percent people are under age of 18 who determined as Children. The Child rights are violated in whole countries side by their parents , social norms, lack of implement of law. We know that Bangladesh is least developing country. The main reason of Child Labour illiteracy of parents, poverty, family members numerous, break of family. The Child Labour are increasing day by day industrial and commercial area, this rate are highly increase rural area then urban area. The Children are deprived from their basic rights such rights are, education, health and nutrition, recreation, sanitation and hygiene. The majority families are depends on agriculture base, some others cultivate with others land some others landless. Some dishonest people are use the Child Labour cheap salary and misbehave with them. There are difference organs work for reduce the Child Labour such as Government and Non-Governmental Organization etc. Our Government should be properly implemented Labour law in our country industrial and commercial both side and whole over the country. Finally, every parents should take care their Child to education, mentally, physical, recreation above all.

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Chapter-1

1.1 General 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). Bangladesh is an overpopulated country. Most of the people are poor. Many people migrating to cities in search of jobs. They live extreme poverty and the positions of their children are even worse. Specially, a large number of children are working and staying on the street. In Bangladesh, whose age is less than 18 years is considered as a child. If the actual age seems to be up to 14 years.

Child labor is work that exceeds a minimum number of hours, depending on the age of a child and on the type of work. Such work is considered harmful to the child and should therefore be eliminated. Social norms and economic realities mean that child labor is widely accepted and very common in Bangladesh. Many families rely on the income generated by their children for survival, so child labor is often highly valued. Additionally, employers often prefer to employ children because they are cheaper and considered to be more compliant and obedient than adults. When children are forced to work, they are often denied their rights to education, leisure and play.

Words worth said, ‘Child is the father nation’. Yes, today’s child is tomorrow’s leader. Children are the assets, and a nation gets handsome dividends when it invests most in them. Children are engaged in over 300 different types of work activities of which 49 are considered harmful to their physical and/or mental wellbeing. The govt. formulates many acts and laws against violation of children’s rights. All these laws prohibit the employment of children below 14 years of age. In spite of these laws, children can be found working in garment factories, hotels, brick making, biro factories, mechanical workshops, match factories, agricultural work, domestic work, and as garbage collectors and touts on buses and tempos. Child labor is a visible part of everyday life in Bangladesh: young children serve at roadside tea stalls, and weave between cars selling goods to motorists. Other children work in jobs that are hidden from view, such as domestic work, which

makes monitoring and regulation difficult. On average, children work 28 hours a week and earn 222 taka (3.3 USD) a week.
Many of the jobs that children in Bangladesh perform are considered "hazardous", and put their physical and mental development at risk.

In 2002/03, the Bangladesh Bureau of Statistics (BBS) conducted the second National Child Labor Survey (NCLS).1 this survey has been designed and conducted in the context of the commitments made by the Government of Bangladesh, following the ratification of the International Labor Organization (ILO) Worst Forms of Child Labor Convention (No. 182) 1999. According to the survey, there are 4.9 million working children 14.2 per cent of the total 35.06 million children in the age group of 5-14 years. The total working child population between 5 and 17 years old is estimated at 7.9 million. Sometimes it makes a worse situation and much painful situation.

1.2 Statement of the Problem

Child labor is now a burning issue in our country. According to a survey of the Bangladesh Bureau of Statistics, as of 2015, the country had some 3.45 million active child laborers'.3 Instead of going to regular school and enjoying their childhood, they are working as labours in various professions. The children are not getting the chance to study and be literate. Thus, our country is turning into an illiterate one. They are, sometime, becoming drug addicts because of their company with the adults. They are losing their morality and innocence. They are going through huge trouble because of their work. They often work going beyond their physical ability. They don't know about their rights as child which is being violated extremely. The existing law is not being properly applied regarding the field of child labour. The research is done within the boundary of Rajshahi City Corporation area to disclose the actual condition of the working children within this area.
The aim of this study to clarify whether the provisions of Bangladesh Labour Act 2006 regarding child labour is being followed properly or not.
Intolerable forms of child labor, as categorized by the International Labor Organization (ILO, 2006), are domestic service, slavery or near slavery, hazardous occupations, and sexual exploitation. All of these forms are practiced in Bangladesh.

In practice, child labor laws in Bangladesh do not protect working children. Employers prefer children as they are cheap, productive and obedient. Children working in the industrial sector have no contract of employment and so find it difficult to stand up for themselves and fight for their rights. The demand by factories for child laborers is increasing all the time. The rights of abused child are yet to be recognized in Bangladesh laws in precise terms because its nature and meaning is hardly known to the people[1].

1.3 Aims and Objects of the Study

The major objective of the study is to analyze the prevailing socio-legal situation related to the child domestic servants working in different residential areas of Dhaka.

Thus the specific objective are-

- To evaluate the poor people and their hazardous situation
- To analyze the impact of the child labour and unveil actual situation of Bangladesh.
- To know the child right and motivate for changing people's attitudes.
- To make an idea that which is the most reasonable causes of child labor and how to reduces from Bangladesh.

1.4 Research Methodology

It is very vital for a researcher to know the research methodology and also need to understand the assumptions underlying various methodologies. Researchers also need to know the criteria by which they can decide that certain methodologies will be applicable to certain problems. Behind every successful research, there is at least one method for the progress of research. In the nature of this research it can be termed Qualitative Research. Qualitative Research is primarily exploratory research. It is used to gain an understanding of underlying reasons, opinions, and motivations. It provides insights into the problem or helps to develop ideas for potential quantitative research. Present Research Monograph is descriptive and suggestive in nature. This study is based on secondary data collected from text-books, journals, newspapers, and

[1] Dr. Borhan Uddin Khan and Muhammad Mahbubur Rahman, *Protection of Children in Conflict with the Law inBangladesh*, 1st Edition, Dhaka: Save the children UK, 2008, P. 78

websites. The collected data have been processed and prepared in the present form in order to make the study more informative, analytical and useful for the users.

1.5 Scope and Limitation

Every research study has some limitations in true sense. So this research monograph is not exception to this limitation and limitation reduced the scope of the study in some changes. The scope of this study includes the area of information required to collect and analyze, regarding the determination of the prevention of child labour in Bangladesh.

There are some limitations, which I have faced in preparing my research. The main fact is that, I said limitation has reduced the scope of the study. I have found limited information in the books, journals, internet and articles. The main limitation is the time binding work. However, there are some vital limitations which I had to encounter, at the time of preparing this research monograph. Some of those limitations are:

- Limited access to resources in the university library.
- Rare access to relevant information.
- Time management.
- A little access to experts for editing, analyzing and guidance except my coursteacheer
- To find out the Critics of the Laws of Child Rights in Bangladesh.

To create any good research on any topic and subject time prerequisite is the most important fact. In university library there is not sufficient books related to this topic for making this research.

1.6 Summary of the Chapters

From the initial stage of this study, the Preliminary Chapter introduces the topic of this research along with its aims and objectives, methodologies, scope and limitation of the study and summery of the chapter.

Chapter two of this research, discuses about the issues relating to the insertion of the Definition of Child under the laws of Bangladesh, Some other relevant Laws of Child Issues in Bangladesh, Different Types of Child Works Places in Bangladesh, Industrial Works, Hazardous Child Labor, Child Labor in Garment Industries, Child Domestic Workers, Tokai.

Chapter three analysis causes of child labour in Bangladesh including lack of awareness about child rights among adult and children, lack of education of the parents especially of mothers, lack of proper implementation of the laws relating to children, poverty, illiteracy & ignorance and the international legal instruments of protects children which are the convention on the rights of the children, the universal declaration of human rights, and international convention on civil and political rights.

Chapter four of the research, discussed about the laws relating to child right in Bangladesh and child labor laws and enforcement including, the children Act, harmonized with the CRC , protection of child victims and witnesses, single charge sheet against children, constitute national child welfare board, alternative preventive measures, provision of sentence.

The ending Chapter or more specifically in Chapter Six of the research, discussed about the findings, recommendation and conclusion.

Chapter-2

Concept of Presentation Child Labour in Context of Bangladesh

2.1 Definition of Child under the Laws of Bangladesh

Biologically, a child (plural: children) is a human between the stages of birth and puberty. The legal definition of child generally refers to a minor, otherwise known as a person younger than the age of majority.

There are many social issues that affect children, such as childhood education, bullying, child poverty, dysfunctional families, child labor, and in developing countries, hunger. Children can be raised by parents, by fosterers, guardians or partially raised in a day care center. Child labour refers to the exploitation of children through any form of work that deprives them of their childhood, interferes with their ability to attend regular school, or is mentally, physically, socially and morally harmful. Such exploitation is prohibited by legislation worldwide, although these laws do not consider all work by children as child labour; exceptions include work by child artists, family duties, supervised training, and some forms of work undertaken by Amish children, as well as by indigenous children in the Americas.

Child labour in Bangladesh is significant, with 4.7 million children aged 5 to 14 in the work force in 2002-03. Out of the child laborers engaged in the workforce, 83% are employed in rural areas and 17% are employed in urban areas. Child labour can be found in agriculture, poultry breeding, fish processing, the garment sector and the leather industry, as well as in shoe production. Children are involved in jute processing, the production of candles, soap and furniture. They work in the salt industry, the production of asbestos, bitumen, tiles and ship braking.

In Bangladesh there are various laws available relating to Children's? Hence, actually a problem that, very often, different Acts of Parliament defines a Children from different dimensions. According to the provisions of Children Act 2013, *"Notwithstanding anything contained in any other law of different, for the purpose of this Act, under 18 (eighteen) years of age and all persons shall be treated as children*[2]*"*

[2] Section 4, Children Act, 2013 (Act No: XXIV of 2013)

2.2 Some Others Relevant Laws of Child Issues in Bangladesh

As previously said, in Bangladesh Law makes a distinction between a child and an adult. This distinction is based primarily on the age of the child and the purpose of a particular law. Thus a person is child who is under 16 years of age (The Children Act 1974)[3]. The Majority Act of 1875 describes a person to be a child below 18 years[4]. According to Vagrancy Act 1943 a person below the age of 14 is a child[5].

The Bengal Children Act 1922 (repealed) defined a child as a person who is below 14 years. In India the Orphanages and other Charitable Homes (Supervision and Control) Act 1960 gives a definition of a child. For this law child means a boy or girl who has not completed the age of 18 years. Again a child is differently described in the Children Act 1960 in India. According to this act a child means a boy who has not attained the age of 16 and a girl who has not attained the age of 18 years. In defining child in addition to age, gender is also taken into consideration. According to the Child Marriage Restraint Act 1929 a child is a person below the age of 21 in the case of a male while it is 18 for a female[6].

Under Muslim law a child obtains majority when he attains puberty. A child is assumed to have attained puberty on the completion of 15 years[7].

According to Hindu law, now in existence in Bangladesh a child attains majority after the completion of 15 years. The most agreed upon definition of a child based on age can be found in the United Nations Convention on the Rights of Children 1989[8].

On the other hand, many other laws like, Child Marriage Restraint Act, 1929, Labour Act 2013, Penal Code 1860, Contract Act 1872 etc. also defines a child. Mostly the distinction lies in terms of fixing ages of Children under different fields of enactments.

[3] The Children Act, 1974 (Act No: XXVII of 1974)
[4] The Majority Act, 1875 (Act No: ix of 1875)
[5] The Vagrancy Act, 1943 (Act No XI of 1943)
[6] Section 2a, The Child Marriage Restraint Act, 1929
[7] A.A.A Fyzee, *Outlines of Mohammadam Law*, 4th Edition, Oxford University Press, 2005, P. 153
[8] United Nation Convention on the rights of Children, 1989

2.3 Definition of Child Labour

The definition of child labour varies depending on region, culture, organization, and government. The Western perspective portrays childhood as a carefree stage of life in which a person does not possess the capacity to be an adult. Various organizations have their own definition of child labour and its parameters.

The International Labour Organization's (ILO) Minimum Age Convention 138 states that at age 12 a child is allowed to light work in non-hazardous situations and at age 15 a child is allowed to enter the work force. The ILO 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". The ILO also has three categories pertaining to children in work: economically active children, child labour, and hazardous work. Children can be categorized as economically active if they are involved in work outside of school or the home at least one hour once every seven days. Children can be categorized as performing child labour if they are under the age of 12 or performing hazardous work. Children are categorized as performing hazardous work if they are involved in activities that may harm their physical, mental, or developmental health or safety.

The United Nations Children's Emergency Fund (UNICEF) defines child labour as any activity that affects a child's health and education. Its definition also states that child labour is work that leads to deprivation of childhood activities, exploitation and abuse.

The International Programme on the Elimination of Child Labour (IPEC) defines employment and economically active children as "paid and unpaid work in the formal and nonformal sectors of rural and urban areas". This definition excludes children working in their own households.

The Bangladesh Bureau of Statistics considers children aged 5–14 who work for one or more hours (per week) in both paid and unpaid settings to be child workers. For children older than 10, any economic activity is considered a form a child labour. This includes work both inside and outside of the household setting.

2.4 Different Types of Child Works Places in Bangladesh

There are some issues which are approximately related with child labor in Bangladesh-[9]

2.1.1 Industrial Works

Many children work in industry that is most risky but they are bound to do that. Such as Jainal works in silver cooking pot factory. He is 11 years old. He has been working in this factory for three years. His work starts at 9 a.m. and ends at 6 p.m. For his work he gets 700 taka (10 USD) for a month. His parents are so poor that they cannot afford to send him to school. According to the factory owner, the parents do not care for their children; they send their kids to work for money and allegedly don't feel sorry for these small kids.[10]

2.1.2 Hazardous Child Labor

Child labors are not appropriate for all types of work. According to 1995 the Ministry of labor & manpower in collaboration with UNICEF, "Hazardous Child Labor in Bangladesh" has been created to identify hazardous economic activities involving children. 27 economic activities which known as hazardous are-

- Automobiles workshop worker
- Battery recharging shop worker
- Bedding manufacturing worker
- Blacksmith
- Brick/ stone crushing
- Car painting/ metal furniture painting/ spray painting works
- Child prostitution
- Construction
- Dyeing workshop worker
- Electric mechanic
- Engineering workshop worker
- Goldsmith's assistant
- Hotel/ Mess cook

[9] http://www.assignmentpoint.com/arts/sociology/report-on-child-labor.html, last accessed on: 07.11.2015.

[10] http://www.assignmentpoint.com/arts/sociology/report-on-child-labor.html, last accessed on: 07.11.2015.

- Laundry boy
- Porter
- Printing a press worker
- Rickshaw/ rickshaw van puller
- Saw mill worker
- Small soap factory worker (crude process)
- Sweeper

2.1.3 Child Labor in Garment Industries

In 1991, a study was entitled named "The Conditions of Garment Workers in Bangladesh" found 13% of the workers to be working children. For earning around 500 taka & 585 taka as sewing helpers (which is around 66%) & finishing helpers (around 15% of the total child labor), a third of the child workers were in fact school dropouts. Though they were working about 13 hours as finishing helper & 11 hours as sewing helper, in peak seasons they had to work also in weekly holidays.[11]

2.1.4 Child Domestic Workers

Child Domestic service is a widespread practice in Bangladesh. The majority of child domestics tend to be 12 and 1 7 years old. But children as young as 5 or 6 years old can also be found working. 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. Child domestics works long hours, getting up well before their employers and going to bed long after them.[12]

On 50 percent domestic workers work 12- 14 hours a day. Irrespective of their gender, Child domestic carry out all sorts of household work. Boys often perform tasks like going to the grocery, cleaning the drain, talking the garbage to roadside bins, washing the car and sell nuts etc. On the other hand, girls have to iron the cloths, attend phone calls and serve the guests. The child domestic

[11] http://www.assignmentpoint.com/arts/modern-civilization/child-labor.html, last accessed on: 07.11.2015.

[12] Ibid

workers are often the least paid in the society, their remuneration ranging from 80 taka to 400 taka per month. In most of the cases, they hand over all their earnings to their parents, leaving nothing for themselves.[13]

2.1.5 Tokai

Bangladesh, we see different kind of boys and girls, who are collects different kinds of garbage in their sack and they sell it vagary shop (shop that buy any kind of waste product).They are so poor and are called "Tokai". It is a one kind of child labor. Majority of the tokay's belong to the age group 7-15 years but aged tokai also found. Basically tokai's workplace is mainly public places, bus, train launch terminals, shopping area, streets, residential areas, dustbin etc.[14]

They work daily 8-10 hours and also average income per day less 70 taka. They have no skills. Sometimes, they work under a group or independently. NGOs have taken different programmers for the welfare of the Tokai. They are hopeless. They have no identity. Some are houseless.

2.1.6 Hotel and restaurant

Maximum waiter of the hotel and restaurant are below fourteen aged. They gave their service with low money.[15]

[13] Ibid

[14] http://www.assignmentpoint.com/arts/law/domestic-child-labour-bangladesh.html, last accessed on: 07.11.2015.

[15] Ibid

Chapter- 3

National and International legal framework and enforcement mechanism

3.1 Constitution of the People's Republic of Bangladesh

The rights of every child to a standard of living adequate for the child's physical, mental, spiritual, moral, and social development". In our country the family attends to care and protection of the children. In the extended family, the duties and responsibilities of parents are shared by other members of the family. The well-being and welfare of the children is a matter of general concern. The child gets love, affection, security and sense of belonging in the framework of the family. [16]

While the extended family systems are still prevalent in rural areas to some extent, it is weakening and disintegrating in urban areas and even in rural areas under the pressure of changes. Everything needed by the child could be provided by the family or the local community which was integrated. But with urbanization, industrialization, progress in communication, changes in the economic, political and educational arenas, the families as well as the community became unable in respect of resources, knowledge and experience to give all that a child needs for proper growth and development. Life has become more complex and strains on the family have become more severe today.[17]

The Constitution of Bangladesh while guaranteeing the fundamental rights for the people prohibits all forms of forced labor under Article 34. Article 34 lays down that 'all forms of forced labor are prohibited and any contravention of this provision shall be an offense punishable in accordance with law[18].

Moreover the provisions of the Constitution of the Peoples Republic of Bangladesh also incorporates that,

[16] Justice Imam Ali, Towards A Justice Delivery System For Children In Bangladesh A Guide And Case Law On Children, Published by UNICEF, 2014, P. 132

[17] Ibid pp133-134

[18] Ibid p,135

"Nothing in this article shall prevent the State from making special provision in favor of women or children or for the advancement of any backward section of citizens"[19] Hence the government of the Bangladesh has the power to create special laws for the children's.

3.2 The Children Act 2013

Under the provisions of Section 25 of Children Act 2013, Child-court may think fit, any hearing, the child's best interest to anyone other than the one listed in Section 23, the court may direct for the Immigration and guidance in the light of such person shall be obliged to abandon the court. Under the provisions of the Children Act 2013 of Bangladesh, trial of the Children's will be held in the nature of camera trial[20].

The first expression of international concern about the protection of children came in 1923through "Geneva Declaration" under the aegis of League of Nations. After the establishment of UNO in 1945, children were included in human rights agenda and various instruments for their protection. Like many countries in the world, Bangladesh formally focused its attention on children protection in the Constitution of Bangladesh and customary laws from the very beginning of its independence.[21]

But there is no special children justice law and no positive legislation having opportunities for physical, moral and intellectual development of children. After 42 years of liberation of Bangladesh, the law has not substantially been changed to protect children. Though the Children Act 1974 and the Children Rules 1976 are considered as the basic law for children justice, these are not comprehensive and in conformity with the Convention on the Rights of the Child (CRC) of 1989 and the other international standards. Consequently, children suffer adversely from

[19] Article 28(4), The Constitution of the People's Republic of Bangladesh

[20] Section 28, Children Act, 2013 (Act No: XXIV of 2013)

[21] http://www.blast.org.bd/content/report/06-09-2014-jfc-and-law.pdf, last accessed on: 011.11.2015.

existing laws. It is a great challenge to ensure the overall improvement of the children justice system through a specific child-oriented law in Bangladesh.[22]

In this context, the Government of Bangladesh passed of the Children Act 2013 on the basis of the CRC that Bangladesh ratified long ago (The Convention on the Rights of the Child (CRC) 1989 came into force on 2 September, 1990 in Bangladesh). However, in Bangladesh, the Children Act 2013 is a positive step and it is a great milestone for the protection of the rights of the child in all sphere of life. The numbers of vital issues on child rights have been dealt with in the Act. [23]Furthermore, the Act recognizes some organizations and members and mentions about their responsibilities for protection of the best interest the children. The main issues of the new Act are presented below[24]

"For the purposes of this Act and for the prosecution of offenses under the district headquarters and, as the case may, at least in the metropolitan area will be a court, the court shall be called the children"[25].

3.2.1 Harmonized with the CRC

The Children Act, 2013 is based on the CRC and has referred to the CRC in the preamble and replaced the Child Act 1974. As a result of this development, children in Bangladesh will have the opportunities to be treated fairly both under the national and international laws Due to the differences in ages of children, they were denied fair justice. This discrepancy has been addressed in the Children Act, 2013. In the Act, the age of the child has been increased from 16 to 18 years. So, child age has been fixed up to 18 years.[26]

[22] http://www.blast.org.bd/content/report/06-09-2014-jfc-and-law.pdf, last accessed on: 011.11.2015.

[23] Ibid

[24] Ibid

[25] Section 16, Children Act, 2013 (Act No: XXIV of 2013)

[26] Bandman, B, Children's Right to Freedom, Care, and Enlightenment, Rutledge, 1999, P - 67

3.2.2 Protection of Child Victims and Witnesses

For the first time, the Act has a provision for child victims and witnesses cementing legal instruments for their protection, including compensation for victims. For children in conflict with the law, the law reinforces the importance of the children justice system meaning that children accused of petty crime, particularly children living on the streets will no longer be unnecessarily detained.[27]

Appointment of probation officer: According to the Act, the government will appoint one or more Probation Officer/s in the district, Upazila and metropolitan areas. Child help desks in the police station: As per the Act, under the Ministry of Home Affairs, Child Help Desks will be formed in police stations all over the country.[28]

An officer, ranked sub-inspector or above, will look after the desk. The Act specifies responsibilities of the designated police officer. Child-friendly arrest procedure: According to the Act, whatever the circumstance is, child aged below nine cannot be arrested. If a child above nine is being arrested, law enforcers cannot apply handcuffs and rope around waist to the child.[29]

3.2.3 Single Charge Sheet against Children

The Act specifies about submitting charge sheet against children. According to the Act, a single charge sheet consisting of adults and children cannot be submitted. Juvenile Court at district level: According to the Act, at least one juvenile court will be formed in district or metropolitan area. If a case is filed against a child, whatever crimes s/he committed, the juvenile court will try him/her.[30]

3.2.4 Alternative Preventive Measures

As per the Act, it states that the police officer or juvenile court can look for alternative preventive measures during any stages of the formal judicial system. It has also been mentioned in Act that

[27] Bandman, B, Children's Right to Freedom, Care, and Enlightenment, Rutledge, 1999, P - 67

[28] Ibid p, 69

[29] Ibid

[30] http://archive.thedailystar.net/beta2/news/the-children-act-2013-a-milestone-of-child-protection/,last accessed on: 15.12.2015

there will be a monitoring process for checking, whether the directed alternative measures have any positive impact on the child's behavior.[31]

3.2.5 Provision of Sentence

The Act proposed for highest five years imprisonment and Taka one lakh fines for any cruelty on children as well as giving a guideline for bringing up the children in a conducive atmosphere.

3.2.6 Responsibility of Media

Media is prohibited to publish articles, photographs and information that go against a child under trial in this Act.

3.2.7 Well-being of the Children

This Act encourages family based care and protection considering best interest of the child and meaningful child participation.

However, it can be said that the Children Act, 2013 will cover lacunas of earlier Children Act, 1974. Now we need to create proper awareness and execution about the new Act. We hope, a child-friendly justice system by the proper implementation of the Children Act 2013 would be started as soon as possible in Bangladesh.[32]

3.3 Bangladesh Labour Act 2006

The definition of child labour varies depending on region, culture, organization, and government. The Western perspective portrays childhood as a carefree stage of life in which a person does not possess the capacity to be an adult.[33] Although there is no universal definition for child labour, various organizations have defined child labour and its parameters.[34]

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[31] http://archive.thedailystar.net/beta2/news/the-children-act-2013-a-milestone-of-child-protection/,last accessed on: 15.12.2015

[32] Ibid

[33] Cathryne Schmitz, L.; Traver, Elizabeth KimJin; Larson, Desi (2004). Child labor: A global view. Westport, Connecticut: Greenwood Press. pp. 1–2.

[34] Ibid p, 2

The International Labour Organization's (ILO) Minimum Age Convention 138 states that at age 12 a child is allowed to light work in non-hazardous situations and at age 15 a child is allowed to enter the work force. The ILO 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." The ILO also has three categories pertaining to children in work: economically active children, child labour, and hazardous work. [35]

Children can be categorized as economically active if they are involved in work outside of school or the home at least one hour once every seven days. Children can be categorized as performing child labour if they are under the age of 12 or performing hazardous work. Children are categorized as performing hazardous work if they are involved in activities that may harm their physical, mental, or developmental health or safety.[36]

As Bangladesh is economically non-solvent country, about 55 million people live below the poverty line. If, from a family at least one child labor has come then he or she will earn 20 to 25 percent of the family income. Their only aim is to feed themselves & survive in anyhow. Parents also encourage their child for earning. For these types of families, poor parents fail to appreciate the long-term value of education, & instead for the short term economic gins of child labor.[37]

They hold their children for field & household work & also for engineering workshop to learn employment shill. It acts like an alternative education with much more practical value than traditional primary education. Since January 1993, govt. has given an approval of the Compulsory Primary Education Program. But, the poor families still cannot bear the cost of uniform & transportation cost for a school going children. [38]

[35]Ibid. pp, 2-4.

[36]http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-i-b.pdf, last accessed on: 15.12.2015.

[37] Ibid

[38]https://en.wikipedia.org/wiki/Child_labour_in_Bangladesh, last accessed on:15.12.2015

The incomes of that type of families are low & if the school going children become a labor then it will be more beneficiary for them & these emergencies are the main reason of child labor. In Bangladesh often may happen natural calamities & it would be difficult for these families to reinstate. For many other problems like this, children from those families are being trapped & enter into the working world.[39]

3.4 Nari O ShishuNirjatan Daman Ain 2003

Nari O ShishuNirjatonDomonAin is seriously misused. This law is being used as an instrument of humiliation, extortion and harassment. The result of making the law is disheartening. If the womenfolk unitedly vmobilise, the government will bring a fundamental change to the law," he said while speaking as chief guest at a seminar on `Conventional Laws to Prevent Violence Against Women and Their Use' organized by Naripokkho, a women's organization.[40]

3.5 The Employment of Children Act 1938

This act allowed for children aged 15 or up to work in the railway industry and in transporting goods in port jobs. It also allowed for children aged 15–17 to work night shifts that may last until the morning under certain stipulations such as resting for 13 consecutive hours, working under someone that is 18 years or older, or serving an apprenticeship. It prohibited children under 12 from working in hazardous industries but did not mention protection for children between the ages 12–18.[41]

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[39] Ibid

[40] http://www.assignmentpoint.com/arts/law/nari-o-shishu-nirjaton-daman-ain.html, Last Visited on 15.12.2015

[41] Herath, Gamini; Sharma, Kishor (2007). Child Labour in South Asia. Burlington, VT: Ashgate Publishing Company. pp. 81–98.

3.6 The Factories Act 1965

This act prohibited children under 14 to work in or be present in factories. Factories were defined as any place with more than 10 people employed. It also listed various protections for children from hazardous machines and operations. It prohibited any work duration of longer than 5 hours between 7pm to 7am. It also states the weight lifting limits for types of workers (male, female, and child).[42]

3.7 Child Labor Laws and Enforcement

The law states that no child under the age of 14 years shall be allowed to work in any profession or establishment. Children 14 to 18 years are considered young people and there are restrictions on the types of jobs and hours they can work.[43]

Young people working in factories may not use certain dangerous machines without adequate training and supervision, they also may not perform certain tasks while machinery is moving, and the law allows for the Government to publish lists of jobs that they are not allowed to perform. No young person is allowed to work in a factory or a mine for more than 5 hours a day and 30 hours a week. In all other types of establishments, young people may not work more than 7 hours a day and 42 hours a week. Additionally, young people are not allowed to work between the hours of 7 p.m. and 7 a.m.[44]

The law provides an exception for children age 12 to 13 to participate in light work that does not interfere with school and does not endanger their health or development.[45]
The Office of the Chief Inspector of Factories and Establishments under the Ministry of Labor and Employment is responsible for implementation and enforcement of labor laws, including child

[42] Ibid pp, 100

[43] U.S. Embassy – Dhaka, reporting, December 19, 2007.

[44] Ali Salma, Report on Laws and Legal Procedures Concerning the Commercial Sexual Exploitation of Children in Bangladesh, Bangkok, October 2004, 15, 17, 46, See also Government of Bangladesh, Suppression of Immoral Traffic Act, Act No. VI, (1933), articles 9-12.

[45] Ibid

labor provisions. According to USDOS, the Chief Inspector does not have adequate resources to enforce labor law compliance throughout the country.[46]

The ministry has approximately 150 inspectors and related support staff. Generally, child labor violations are remedied with a verbal warning.[47] Although the vast majority of child labor occurs in the agriculture and informal sectors, officials inspect only formal sector workplaces and focus primarily on the ready-made garment industry.[48]

The law forbids forced labor and prohibits parents or guardians from pledging their children's labor in exchange for a payment or benefit.[49] It is illegal to sell, let to hire, hire procure, encourage, abet, or otherwise obtain possession of any person under 18 for the purpose of prostitution or to maintain a brothel for these purposes. These offenses are punishable by imprisonment of up to 3 years. Child trafficking, which includes importing, exporting, buying, selling, or taking into possession any child for immoral or unlawful purposes, is illegal and punishable by life imprisonment or death.[50]

The law also provides for traffickers who have fled to other countries to be extradited to Bangladesh for trial. It is illegal to instigate any person, including a child, to produce or deal in narcotic drugs; this crime is punishable by 3 to 15 years of imprisonment. The minimum age for voluntary military service is 18 years, and there is no forced conscription in Bangladesh.[51]
During the reporting period, the Government has strengthened its efforts to combat trafficking by expanding anti-trafficking units within the police force to every district of the country and

[46] U.S. Department of State, "Country Reports – 2007: Bangladesh," section 6d.

[47] Government of Bangladesh, Labour Code, 2006. See also Government of Bangladesh, Constitution of the People's Republic of Bangladesh (as modified up to 17 May, 2004), (November 4, 1972); available from http://www.pmo.gov.bd/constitution/contents.htm, Last Accessed on 18.12.2015

[48] Government of Bangladesh, Labour Code, 2006. See also Government of Bangladesh, Constitution of the People's Republic of Bangladesh (as modified up to 17 May, 2004), (November 4, 1972); available from http://www.pmo.gov.bd/constitution/contents.htm, Last Accessed on 18.12.2015

[49] Ibid

[50] Article 6: Suppression of Violence against Women and Children Act, (Act. No. VIII of2000),

[51] U.S. Central Intelligence Agency, World Factbook: Bangladesh, [online] December 13, 2007 [cited December 14, 2007]; available at https://www.cia.gov/cia/publications/factbook/fields/2024.html, Last Accessed on 18.12.2015
See also Coalition to Stop the Use of Child Soldiers, "CRC Country Briefs."

providing trafficking in persons training to members of the National Police Academy and other public officials.[52] The Government has also continued its efforts to investigate and prosecute public officials complicit in trafficking crimes.[53]

3.8 Loopholes in the Laws Relating to Child Rights in Bangladesh

Some of the loopholes of Children Act 2013 of Bangladesh are given below:

- From the legal and technical angle, the government could ban websites containing materials not suitable for children or order service providers to shut down such sites. But people will find smarter ways of circumventing that. The best way, we feel, is the awareness solutions where the role of the parents as well as teachers assumes salience[54]. The Child Act 2013 and the current education policy, reportedly, do not address Internet safety, which it should. Social campaigns should be launched to raise awareness about the judicious, knowledge-based use of the Internet.
- In Bangladesh, the issues of human rights of ethnic youths and children are often overlooked and not much discussed about. Bangladesh recently enacted the Children Act-2013. But this law does not have any specific provisions for ethnic children.
- This Act does not address the inequality in education at all, it focuses on the inputs and infrastructure, not the quality of education; there is no reference to learning outcomes and this is what we hope the new education policy for children's will address.
- This Act doesn't mandates for camera trial in strict sense. It gives the power to the court for holding camera trial by its discretion
- The rationality of punishment and fine under the said Act are not properly estimated.

[52] Ibid

[53] Ibid

[54] Section 12, Children Act, 2013 (Act No: XXIV of 2013)

3.9 The Convention on the Rights of the Children 1989

The purpose of this overview is to describe some of the provisions of certain major international legal instruments on children's rights that form part of that landscape[55]. Bangladesh adheres to the principle of dualism. This means that international law does not upon ratification become automatically effective and cannot be directly invoked in Court[56].

The United Nations Convention on the Rights of the Child (commonly abbreviated as the CRC, CROC, or UNCRC) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under a state's own domestic legislation.[57]

Nations that ratify this convention are bound to it by international law. Compliance is monitored by the UN Committee on the Rights of the Child, which is composed of members from countries around the world. Once a year, the Committee submits a report to the Third Committee of the United Nations General Assembly, which also hears a statement from the CRC Chair, and the Assembly adopts a Resolution on the Rights of the Child.[58]

Governments of countries that have ratified the Convention are required to report to, and appear before, the United Nations Committee on the Rights of the Child periodically to be examined on their progress with regards to the advancement of the implementation of the Convention and the status of child rights in their country. Their reports and the committee's written views and concerns are available on the committee's website.[59]

The UN General Assembly adopted the Convention and opened it for signature on 20 November 1989 (the 30th anniversary of its Declaration of the Rights of the Child). It came into force on 2 September 1990, after it was ratified by the required number of nations. Currently, 194 countries are party to it, including every member of the United Nations except Somalia, South Sudan and the States. In Somalia, parliamentary approval and presidential assent of the ratification act was

[55] Stephen R. Arnott, *Family Law: Autonomy, Standing, and Children's Rights*, 33 William Mitchell Law Review 809 (2007), Arnott notes that "the very term 'children's rights' is both broad and loose," *id*. at 808

[56] Justice Imam Ali, Towards A Justice Delivery System For Children In Bangladesh A Guide And Case Law On Children, Published by UNICEF, 2014, P. 213

[57] https://en.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child, Last Accessed On: 15.12. 2015.

[58] http://www.unicef.org/crc/files/Rights_overview.pdf, Last Accessed On: 15.12. 2015.

[59] http://en.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child, Last Accessed On: 15.12. 2015.

obtained "without the articles of 14, 20 and 21 due to Somali culture, religion and the provisional constitution.[60]

On 20 January 2015, Somalia ratified the convention and the process will be finalized once the Government of Somalia deposits the instrument of ratification at UN Headquarters in New York. South Sudan has started its domestic process to become a party to the treaty.[61]

Two optional protocols were adopted on 25 May 2000. The First Optional Protocol restricts the involvement of children in military conflicts, and the Second Optional Protocol prohibits the sale of children, child prostitution and child pornography. Both protocols have been ratified by more than 150 states. A third optional protocol relating to communication of complaints was adopted in December 2011 and opened for signature on 28 February 2012. It came into effect on 14 April 2014. [62]

3.10 The Universal Declaration of Human Rights 1948

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Bearing in mind that the peoples of the United Nations have, in the Charter, reaffix armed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom, Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.[63]

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance, Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be off order the necessary protection and assistance so

[60] http://en.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child, Last Accessed On: 15.12. 2015.

[61] Ibid

[62] http://www.loc.gov/law/help/child-rights/international-law.php#_ftnref20, Last Accessed On: 15.12. 2015.

[63] http://www.eycb.coe.int/compasito/chapter_6/pdf/1.pdf, Last Accessed On: 15.12. 2015.

that it can fully assume its responsibilities within the community, Recognizing that the child, for the full and harmonious development of his or her personality, should grow up Nationally and Internationally.[64]

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration, Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries.[65]

3.11 International Covenant on Economic, Social and Cultural Rights 1966

The Preamble to the International Covenant on Economic, Social and Cultural Rights (ICESCR), insofar as it recognizes the indivisibility of human rights, is applicable to children's rights as well. Thus, it notes that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" and that "these rights derive from the inherent dignity of the human person.[66] Specific references to children are found in articles 10 and 12.[67]

Under article 10, the widest possible protection and assistance should be accorded to the family, particularly for its establishment and while it is responsible for the care and education of dependent children" (item 1, in part). It further stipulates that "special measures of protection and assistance" should be taken on behalf of the young without any discrimination; that they should be protected from economic and social exploitation; that employing them in morally or medically harmful or

[64] Ibid

[65] Ibid

[66] Bueren Geraldine Van the International Law on the Rights of the Child 10-11 (Dordrecht/Boston/London, Martinus Nijhoff Publishers, 1995. 35

[67] ibid

dangerous work or in work likely to hamper their normal development should be punishable by law; and that age limits should be set below which the paid employment of child labor is prohibited and punishable by law (item 3). Article 12 addresses the right of all to "enjoyment of the highest attainable standard of physical and mental health," to be fully realized by, among other measures, States Parties' providing "for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child" (item 2(a)). The ICESCR also provides for the right of everyone to education (article 13(1)) and stipulates "primary education shall be compulsory and available free to all" (article 13(2a)).[68]

3.12 African Charter on the Rights and Welfare of the Child 1990

The African Charter on the Rights and Welfare of the Child (ACRWC), the first regional treaty on children's rights, builds on the 1979 Declaration on the Rights and Welfare of the African Child,19 but most of its provisions are modeled after those of the CRC. "The main difference lies in the existence of provisions concerning children's duties [in article 31], in line with the African Human Rights Charter.[69]

The Preamble states that "the child occupies a unique and privileged position in the African society" and requires legal protection as well as "particular care with regard to health, physical, mental, moral and social development." A child is defined as "every human being below the age of 18 years" (article 2). The ACRWC sets forth the principles of non-discrimination and the best interests of the child and also provides that children have an inherent right to life, protected by law. The death sentence is not to be applied to crimes committed by children (articles 3-5). Children have a right to a name and nationality as well as to freedom of expression, association and peaceful assembly; thought, religion, and conscience; privacy; education; and rest and leisure (articles 6-12).[70]

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[68] Bueren Geraldine Van, the International Law on the Rights of the Child 10-11 (Dordrecht/Boston/London, Martinus Nijhoff Publishers, 1995. 35 International Studies in Human Rights).

[69] Article 11 on education is the longest article in the ACRWC. It also provides, among other measures that States Parties are to in particular to provide free and compulsory basic education (art. 11(3)).

[70] Article 11 on education is the longest article in the ACRWC. It also provides, among other measures that States Parties are to in particular to provide free and compulsory basic education (art. 11(3)).

Special measures of protection are to be taken for handicapped children and children should enjoy physical, mental, and spiritual health (articles 13-14). Children should also be protected against all forms of economic exploitation and from performing work likely to be hazardous (article 15) and against all forms of torture, maltreatment, and abuse (article 16); harmful social and cultural practices (article 21); all forms of sexual exploitation or abuse (article 27); the use of narcotics and illicit drugs (article 28); and abduction, sale, trafficking, and use in begging (article 29)

Chapter-4

Causes of Prevention of Child Labour in Bangladesh and Case studies

4.1 Lack of Awareness about Child Rights among Adult and Children

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.[71]

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. [72]

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

[71] http://bangladeshsociology.org/BEJS%2010.1Sharmin%20Aktar%20.pdf, Last Accessed on 18.12.2015

[72] Ibid

enter into jobs by observing their friends who are devoting their labour in the labour market, whatever the nature of work.[73]

4.2 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.[74]

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 as children whose mothers attended primary school (UNICEF, 2010).[75]

4.3 Lack of Proper Implementation of the Laws Relating to Children

Followings are some big obstacles in the way of proper implementation of child labour laws: [76]

- People, who are employing children, are not aware about the child labour laws, its provisions, penalty on defaulters. Asia Pacific Journal of Marketing & Management Review ISSN 2319-2836 Vol.[77]
- Vicious circle of poverty, a large number of people are living below poverty line, they do not have money to support their families so that they send their children for work and to earn money for their living.
- Illiterate people are not able to earn more and do not able to read and understand about rules and regulations.

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[73] Ibid

[74] M. Rahman, 1994. Child Labour and Human Rights: Bangladesh Perspective, the Dhaka University Studies, part-F, Vol. 5(1). M

[75] M. Rahman, 1994. Child Labour and Human Rights: Bangladesh Perspective, the Dhaka University Studies, part-F, Vol.5 (1). M

[76] http://indianresearchjournals.com/pdf/APJMMR/2013/September/9.pdf, Last Accessed on 18.12.2015.

[77] Ibid

- Lack of political will and ineffective role of local government regarding in controlling child labour.
- Lack efficiency in administrative machinery responsible for implementing the law.
- Unemployment will of parents.
- Lack of educational and health facility.

4.4 Lack of Education

Lack of education remains one of the top impacts of child labour[78]. Child labour is a deterrent to schooling.[79] Many policies aimed at eradicating child labour have focused on increasing accessibility to education. Organizations such as the ILO, the United Nations, and UNICEF recognize the importance of education in helping to eradicate poverty and in preventing child labour growth rates[80] According to UNICEF, the new National Education Policy requires that children must complete school until grade eight and that school must be free.[81]

Many definitions of child labour state education as a right of childhood and consider barriers to education as a defining characteristic of child labour.[82]

There is a strong relationship between child labour and school attendance. In a 2010 statistical report, UNICEF measured that around 50% of all working children in Bangladesh do not attend school. Another 6.8% of children between ages 7 and 14 whom, while going to school, also work.[83]

[78] Liamputtong Pranee (2011). Focus Group Methodology: Principle and Practice. Sage Publications. p. 118.

[79] http://www.bangladeshstudies.org/files/WPS_no8.pdf, Last Accessed on 18.12.2015.

[80] Hobbs, Sandy; McKechnie, Jim; Lavalette, Michael (1999). Child labor: A world history companion. Santa Barbara, California, p. 31.

[81] Ibid

[82] Cathryne Schmitz, L.; Traver, Elizabeth KimJin; Larson, Desi (2004). Child labor: A global view. Westport, Connecticut: Greenwood Press. pp. 1–2.

[83]"Bangladesh" (PDF). 2011 Findings on the Worst Forms of Child Labor by Country. Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) United States Department of Labor. 2011.

Of those that do attend school, school performance is negatively affected when children are in the work force.[84]

Although school is free, many children are forced to drop out because they do not have the time or resources to attend. For many families, the income produced by their children is considered more valuable than an education that requires their child to stop working. A study conducted by Raman (1997) found that around 58% of working children listed economic hardship as the reason they were not attending school.[85] Of those that did choose to go to school, conditions of schools and the quality of education proved to be serious barriers to significant learning.[86]

A 2002 and 2003 survey conducted by the World Bank showed that on average teachers in Bangladesh miss one out of five days of work a week. It has also been found that illiteracy rates are a predictor of child labour prevalence. In 2013, UNICEF estimates that total adult literacy is around 57.7%.Literacy rates also tend to be lower for females than males. In Bangladesh, less than 75% of girls finish their primary education.[87]

4.5 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.[88]

[84] Ibid

[85]C.Salmon, Child Labor in Bangladesh: Are Children the Last Economic Resource of the Household (2005). Journal of Developing Societies, 21(1-2), 33-54.

[86] Abhijit Banerjee, V.; Duflo, Esther (2011). Poor Economics. New York: Public Affairs, p.74.

[87] Joni Seager, (2008). The Penguin Atlas of Women in the World. New York: Penguin Books. p. 81

[88]International Labour Organization.(2006). The end of child labour: Within reach. Retrieved from http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-i-b.pdf, Last Accessed on 18.12.2015.

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).[89]

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)Poverty is widely recognized and acknowledged as the primary cause of child labour.[90]

The link between poverty and child labour is supported by efforts of international organizations, such as the ILO and the United Nations, to reduce child labour through poverty reduction policies.[91]

There is a strong negative correlation between the income level of a country and the incidence rate of child labour. An increase of 0 BDT- 50,000BDT per capita income to 50,000 BDT-1,00,000 BDT per capita income can lead to a decrease in child labour incidence rate from 30%-60% to 10%-30%. Although the annual per capita income of Bangladesh has been increasing, around 9-13% of the total labor force in Bangladesh still consists of children aged 5–14. In a 2013 statistical report, UNICEF estimates that around 43.3% of the population in Bangladesh is currently living below the international poverty line.[92]

[89] Ibid

[90] Khamna, Rahman, M. R., & Absar, N. U. (January 01, 1999). Child labor in Bangladesh: A critical appraisal of Harkin's Bill and the MOU-Type Schooling Program. Journal of Economic Issues, 33, 4.

[91] Hobbs, Sandy; McKechnie, Jim; Lavalette, Michael (1999). Child labor: A world history companion. Santa Barbara, California: ABC-CLIO, Inc. p. 31.

[92] Ibid, p,32

Factors such as urbanization and population growth perpetuate poverty. In a 2013 statistical report, UNICEF estimated an annual population growth rate in Bangladesh to be 1.7% from 1990-2012. Populations move from rural to urban areas because there is an increase in available economic opportunities. A combination of poor living standards in urban settings and an influx of cheap labour from children perpetuate both poverty and the use of child labour.[93]

The prevalence of child labour can be attributed to the socioeconomic statuses of families living at or below the poverty line. Oftentimes, families rely on the extra income produced by their children in order to sustain their livelihood. Many children are forced to work to help support the family. In other cases, children are forced to work for a living for themselves because they are abandoned or could not take care of them. Studies have shown that children from poorer families are more likely to be in the workforce due to their contribution to overall family income.[94]

4.6 Illiteracy & Ignorance

Many parents of working children are illiterate and unskilled with little prospect of being able to improve their situation. There is a lack of faith in the existing education system as it does not necessarily lead to employment. Many poor parents feel that it is better for their children to learn by working rather than sending them to school.

4.7 Poverty and Unemployment Levels are High

Poor children and their families may rely upon child labor in order to improve their chances of attaining basic necessities. More than one-fourth of the world's people live in extreme poverty, according to 2005 U.N. statistics. The intensified poverty in parts of Africa, Asia, and Latin America causes many children there to become child laborers.[95]

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[93] Ibid, p,32-33

[94] Abhijit Banerjee, Abhijit V.; Duflo, Esther (2011). Poor Economics. New York: Public Affairs. p.74.

[95] https://www.continuetolearn.uiowa.edu/laborctr/child_labor/about/causes.html Last Accessed on 18.12.2015.

4.8 Existing laws or Codes of Conduct are often Violated

Even when laws or codes of conduct exist, they are often violated. For example, the manufacture and export of products often involves multiple layers of production and outsourcing, which can make it difficult to monitor who is performing labor at each step of the process. Extensive subcontracting can intentionally or unintentionally hide the use of child labor.[96]

4.9 Laws and Enforcement are often Inadequate

Child labor laws around the world are often not enforced or include exemptions that allow for child labor to persist in certain sectors, such as agriculture or domestic work. Even in countries where strong child labor laws exist, labor departments and labor inspection offices are often under-funded and under-staffed, or courts may fail to enforce the laws. Similarly, many state governments allocate few resources to enforcing child labor laws.[97]

4.10 Case study

Juvenile justice denotes access to justice for all children. Generally the term juvenile means a person who has not reached the age at which one should be treated as an adult by Law. A proper function of juvenile justice system ensures protection of child who is in conflict with the law. Article 28(4) of the Constitution of Bangladesh requires the government to enact legislation for women and children and in pursuance of that The Children Act 2013 was adopted. Bangladesh has also ratified the Convention on the Right of the child (CRC) in August 1990 and is obliged to reflect the principles of CRC in our national Laws. However until now The Children Act 2013 is the substantive Law for juveniles in Bangladesh. The Children Act deals both with children in need of protection as well as children accused of breaking the law. In the present write up an attempt has been made to make an analogous discussion of the substantive Law and the prominent

[96] Ibid

[97] Ibid

decisions of the highest Court of Bangladesh. The discussion may help one to understand what the law is and how it is set forth in the decisions by the highest Court in Bangladesh.

4.10.1 Shiptu and others vs. State 49 DLR (HCD) 53

Section-16 of the Children Act embodies the powers of Juvenile Court, etc. Under the section trial of children is exclusively within the jurisdiction of Juvenile Court and no other Court can take cognizance of any offence committed by the child below the age of 18 years[98].

It is to be mentioned that the said Act defines child as a person below the age of 18 years. In this connection the decision of the High Court Division (Special Original Jurisdiction) in Bangladesh Legal Aid and Services Trust and others v. Bangladesh and others-7 BLC 85 is noteworthy[99]. It is revealed in the judgment that considering the provisions of Law and the decisions of the Superior Courts of this Sub-continent the Court fined that the trial of child and adult together is void ab initio. (ab initio means from the very beginning). Section-6 of the Act provides for separate trial of child and adult. The section makes it clear that there can be no joint trial of child and adult and as such no child is to be charged with or tried for any offence together with an adult. The child must be tried separately in the Juvenile Court and not in the ordinary Court. Only the Juvenile Court is competent to take cognizance against the Juvenile offenders. In this relation the decision of Nasir Ahmed v. The State[100] is considerable. In the aforesaid judgment it is said that the trial of child along with adult is forbidden by Law. In view of the legal position such trial is hit by want of jurisdiction and stands vitiated. It is clearly stated in Kadu& others v. The State 43 DLR (1991) HCD 163 that the joint trial of child and adult is illegal. It is also mentioned in the case of KawsarunNessa & others v. The State 15 BLD 1995 HCD 21 that the trial of minor together with adult is illegal. At the same time it is stated in the case of Baktiar Hossain v. State 47 DLR 542 that once a child offender crosses the age of 16 years and then charged with an offence or tried for the same, the statutory requirement of the child being tried by juvenile Court comes to an end.

[98] Section 4, Children's Act 2013 (Act No: XXIV of 2013)
[99] Shiptu and others vs. State 49 DLR (HCD) 53
[100] Nasir Ahmed v. The State 42 DLR (1990) HCD 89

4.10.2 Bimool Dash vs. State 46 DLR (HCD) 460

Section-16 of the Children Act 2013 provides for Juvenile Courts and section-17 of the said Act identifies the courts empowered to exercise powers of Juvenile Court. The section includes the High Court Division, Court of Session, Additional Sessions Judge, Sub-divisional Magistrate and Magistrate of first class. In this regard, in the case of Bimal Das v. State[101] it has been stated that the Sessions Judge may also, whether the situation demands it, exercise the power of a Juvenile Court. The sitting place and environment of Juvenile Courts are described in section-7 of the Children Act. The section requires separate date and time for juvenile Courts from the ordinary Court.

4.10.3 Munna and Others vs. State of UP and Others, 1982 AIR 806, 1982

We may view the opinion given in the judgment by High Court Division (Criminal Appellate Jurisdiction) in Munna and others v. State 7 BLC 409[102]. It is stated in the judgment that when section-4 of the Children Act 1974 empowers sessions Judge and Additional Sessions Judge to exercise the powers of Juvenile Court in the case involving child offenders for offence exclusively triable by Court of Session, mere registration of case as simple Sessions Case after receipt of the case record from the Sessions judge and non-registration of the same as juvenile Court case will expose no gross irregularity in the matter[103].

Further it is stated that it will also not be a gross irregularity and illegality to negative the proceedings and its ultimate decision unless it is alleged or shown specifically that there has been miscarriage of justice or failure of justice causing prejudice to the accused.

4.10.4 Ashok and BLAST case, 57 DLR 11

In conclusion of the case studies relating to child issues of Bangladesh, the judgment of High Court Division in Bangladesh Legal Aid and Services Trust v. Bangladesh and others[104] is noteworthy.

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[101] Bimal Das v. State 46 DLR 460

[102] Munna and others v. State 7 BLC 409

[103] ibid

[104] *Bangladesh Legal Aid and Services Trust v. Bangladesh and others* 57 DLR 11

Chapter -5

Concluding Analysis

5.1 Findings

- Labor force participation of children: In broad, child labor deprives the mental growth of a child. But in our country, they got a vital role in our economy. Poverty is the main problem in our country, so that many children help his/ her parent for their family solvency. If they are not get labor with his /her parent, their parent is not able to give a handful food with his mouth. So when the child does hazardous work that is most pathetic. Many easy works done by the child.

- Participation of school-aged children in Economic Activities: Bangladesh, we see different kind of boys and girls, who are collects different kinds of garbage in their sack and they sell it vagary shop (shop that buy any kind of waste product).They are so poor and are called "Tokai". It is a one kind of child labor. Majority of the tokai's belong to the age group 7-15 years but aged tokai also found. Basically tokai's workplace is mainly public places, bus, train launch terminals, shopping area, streets, residential areas, dustbin etc. They work daily 8-10 hours and also average income per day less 70 taka. They have no skills. Sometimes, they work under a group or independently.

- Children marriage: Many Bangladeshi girls are married soon after puberty, partly to free their parents from an economic burden and partly to protect the girls' sexual purity. Where a girl's family is very poor or she has lost her parents, she may be married as a third or fourth wife to a much older man, to fulfill the role of sexual and domestic servant.

- Abuse of children in trafficking, industrial works, household labors, early marriage, biri factory, forcedly prostitution, begging, less wages, helping in the vehicle etc: Human trafficking in Bangladesh is believed to be extensive both within the country and to India, Pakistan and the Middle East. Many girls are trafficked into sexual exploitation or bonded servitude. Many boys of Bangladesh have also been trafficked to the Middle East to

become camel racing jockeys. Children involved in camel racing (CICR) are often injured in the course of their work, are vulnerable to abuse from their employers and there are reports of employers deliberately keeping the children's weights low by not feeding them enough.

- Child labor is a crime. But in Bangladesh, peoples are so poor. They cannot live easily. For this reason, poor people's children do begging on the street. These children work on the streets every day and their number is increasing. They collect money from the people. Also, they sell stuff like books, flowers, newspaper, water etc. Sometimes, the adult beggar rent for begging like infant or different kind of diseases children .Also, they searches food from door to door.

- Deprivation from education of child: Form the point of view of national policy, the primary strategy for reducing the number of working children is through enforcement of the universal compulsory education. According to that philosophy and strategy, "these children should all be in schools and not in the factories shops and other workplaces". But this cotetion are not effortful most of the children are not get the opportunity .it's always violation in our society.

In addition,

- Lack of Awareness about Child Rights among Adult and Children
- Lack of Education of the Parents, Especially of Mothers
- Lack of Proper Implementation of the Laws Relating to Children
- Existing Laws or Codes of Conduct are often Violated
- Laws and Enforcement are often Inadequate

5.2 Recommendation

This is the time to know- How to end child labor in Bangladesh. Because In Bangladesh child labor is a social problem though different laws and regulations have been enhanced with a view of protect children from work. The government of Bangladesh is trying to ending child labor.

- Measures to be taken: Although elimination of child labor is desirable but it's a difficult task in real term. For successful elimination, coordinated, continuous and steady efforts can be justified. However, phase by phase elimination of child labor may be possible of the following points are considered.

- Identifying Child Workers: Identifying child workers is crucial for any sort of planning. However it is not easy identify all child workers in the country. So organized sectors should be taken up immediately and efforts should continue from government, NGO's and social activities.

- Enhancing Educational Programme: Formal and non-formal education through full-time and part-time schools, vocational training activities may be enhanced. Compulsory primary education should be ensured and ongoing special stress on female education should be continued.

- Strict Actions: Government must take actions to strict enforce measures to stop child labor and to make school attendance affordable. The enforcement machines should be strengthened in terms of manpower and logistic support.

Children, parents, employers, teachers and civil servants will be motivated to improve the neglected public educational systems and to make them accessible for children that used to work. Finally, the SCLBD will provide extra teaching staff or it takes other measures in order to take care of the capacity and logistic problems resulting from an increased demand for education.

5.3 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.

Now, in the whole world child labor is a huge problem. If we do not take any step for this problem as soon as possible, it will create a big hazard in near future. Children are the key of future world. So, we should protect this problem. Govt. is already taking some steps for that & they should continue it. This is our duty to ensure the legal rights of every child.

Children are probably the most neglected members of society and hardly have any voice, even within the home. As a result, they are consistently becoming easy victims of all sorts of violence. Though there is the Children Act 1974 purported to dealing with juvenile justice, even that, too is inadequate. Furthermore, the legal system, especially the criminal justice system – and more specifically the law enforcement agency – are indifferent to such laws and more often than not

treat children just as they would treat adult criminals. Violence against children must stop and the judiciary, law enforcing agents and the parents and guardians of children themselves, must be sensitized to the provisions of the Convention on the Rights of the Child and the laws protecting children in Bangladesh. Furthermore, children need to be protected from vested interest groups and acts of impunity towards children by those purporting to protect society must be dealt with seriously and in accordance with the law.

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