

# ANALYSIS OF THE GOVERNMENT POLICIES, LAWS AND REGULATIONS REGARDING CHILD LABOUR ISSUES



Bangladesh Shishu Adhikar Forum (BSAF)





**BSAF**

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## Foreword

Child labor is a socially accepted common phenomenon in Bangladesh. Bangladesh is obliged under both national and international law to protect and promote the rights and interests of children. However, the presence of child labor in the country is contradictory to the preservation of child rights, depriving them from their health and education, and condemning them to a life of poverty and want.

Bangladesh has constitutional guarantee, certain laws, policies and regulations to combat child labor. But those are yet to be implemented. Moreover there are huge gaps and inconsistencies lies in the child labor related existing laws, policies and regulations which need to be identified.

Bangladesh Shishu Adhikar Forum (BSAF) has taken an initiative for identifying the gaps and lapses or contradictions in the current legal and policy framework in regard to child labour along with specific recommendations on those binding and non-binding legal instruments.

I am very much grateful to Manusher Jonno Foundation (MJF) for their continuous and meaningful support to BSAF and especially for this important task. Without support from MJF it could have little difficult to bring this study report before us. I am thankful to Mr. Sharfuddin Khan, Child Protection Specialist for conducting the study in qualitative and timely manner and also for facilitating the validation workshop as the consultant. I am indebted to the hon'ble Executive Committee Members of BSAF particularly the Chairperson for his time to time guidance and suggestions. I would like to appreciate the hard work and commitment of my colleagues in BSAF secretariat who shouldered the responsibility so as to accomplish the task on time despite lots of limitations and workload.

Hopefully this document will be helpful to organizations who will be working on child rights, and of course the concerned policymakers to make necessary amendments in the existing legal framework in regard to child labour.

**Abdus Shahid Mahmood**

Director, BSAF

## Abbreviation and acronyms

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BBS	Bangladesh Bureau of Statistics
BSAF	Bangladesh Shishu Adhikar Forum
CDW	Child Domestic Worker
CRC	Convention on the Rights of the Child
DIFE	Department of Inspection of Factories and Establishment
DWPWP	Domestic Worker Protection and Welfare Policy
GoB	Government of Bangladesh
MJF	Manusher Jonno Foundation
MoLE	Ministry of Labour and Employment
NCLEP	National Child Labour Elimination Policy
NPA	National Plan of Action
SDG	Sustainable Development Goals

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## Executive Summary

### Introduction

According to the national child labour survey conducted by the Bangladesh Bureau of Statistics in 2013, approximately 3.45 million working children in the country, of which 2.10 million were considered as child labourers and among them 1.28 million engaged in hazardous work.

Over the years the Government of Bangladesh (GoB) as well as national and international NGOs and UN agencies have taken various steps in terms of policy formulation and implementation of projects and programs to prevent and eliminate child labour, especially hazardous forms of child labour. The GoB has ratified ILO Convention No. 182 concerning the Worst Forms of Child Labour and enacted laws and regulations related to child labour. However, gaps exist in Bangladesh's legal framework to adequately protect children from the worst forms of child labour, including the minimum age for work.

The government has also established institutional mechanisms for the enforcement of laws and regulations on child labour. However, gaps exist in the existing laws and policies and within the operations of implementation bodies to enforce child labour related laws and policies. As a result, the issue of child labour remains a concern in Bangladesh as most of the existing laws and policies have not been enforced in an effective manner.

Bangladesh Shishu Adhikar Forum (BSAF), a national network of 272 child right NGOs has taken an initiative to undertake an analysis of existing child labour related laws, policies and regulations in Bangladesh as part of its advocacy efforts towards eliminating child labour.

### Specific objectives

- Assessing the overall situation of working children in Bangladesh
- Reviewing and analyzing the existing child labor related laws, policies and regulation in order to see the gaps (if any),

relevance and effectiveness of these laws and policies

- Analysis of gaps between implementation body and laws, policies and regulation
- Proposing specific recommendations for updating child labor related laws, regulations and policies

### Methodology

Following methods were applied in order to meet the specific objectives of the study:

- Reviewing all relevant international child rights instruments to understand the global standards to prevent and eliminate child labour and reflection of the international instruments in the national laws and policies.
- Reviewing all existing national laws and policies directly or indirectly related with child labour issues to determine the key provisions of the laws and policies and gaps.
- Reviewing a good number of relevant researches/study reports to understand the overall situation of working children in Bangladesh.
- Collecting primary information through Key Informants Interview (KII) from the representatives of national and international child rights NGOs and specialized UN agency to explore their opinions regarding the effectiveness of the existing child labour related laws and policies and its implementation status.

### Summary of findings

#### Overall situation of working children

In Bangladesh, approximately 39.7% working children are engaged in agriculture sector, 30.9% are in service sector and 29.4% were found in industry. This indicates that highest number of children work in agriculture sector. Second highest number of children work in service sector. Almost similar number of children works in industry. Domestic work is the single largest hazardous

child labour sector in Bangladesh where approximately 4, 20,000 children, mostly girls are engaged. A good number of child labourers are also found in the garment industries of Bangladesh, especially in the sub - contracting factories (Supply chain). In addition, a good number of children are exposed to worst forms of labour that include forced labor in the drying of fish and the production of bricks, commercial sexual exploitation, forced domestic work, use in illicit activities, including smuggling and selling drugs and forced begging.

On an average 70% of the children engaged in hazardous work aged 12 years or above. Among them approximately 78% are boys and 22% are girls (Excluding child domestic workers). Around 50% of the children never attended school and others dropped out at Grade 2 level (averaged). Only 10 % children have basic reading and writing skills. Approximately 75% are paid labourers and 25% apprentices (often without pay) are younger children in low-skilled work and often exposed more hazardous conditions.

#### **International Instruments to combat child labour**

**The UNCRC:** Article 32 of the United Nations' Convention on the Rights of Child (UNCRC) recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The UNCRC urged the State parties to take legislative, administrative, social and educational measures to ensure protecting children from labour through providing a minimum age for admission to employment, formulating appropriate regulation for the hours and conditions of employment and providing an appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

**ILO Convention No. 182:** The ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour and calls upon each Member State to take effective and time-bound measures to: (a) prevent the

engagement of children in the worst forms of child labour; (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration; (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour; (d) identify and reach out to children at special risk; and (e) take account of the special situation of girls.

**ILO Convention No. 138:** The ILO Convention No. 138 calls upon the member states to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

**ILO Convention No. 189:** The ILO Convention No. 189 concerning Decent Work for Domestic Workers calls upon the members states to take measures to ensure the effective promotion and protection of the human rights of all domestic workers, including the elimination of all forms of forced or compulsory labour and effective abolition of child labour.

The GoB ratified the UNCRC in 1990 and ILO C182 in 2001 and expressed its commitment at the global level to ensure the rights of the Bangladeshi children. However, as of now a large number of children, including working children are deprived of their fundamental basic rights. The GoB has taken efforts to prevent and eliminate hazardous child labour, but most of these efforts could not bring expected results due to lack of enforcement of the existing laws and policies. On the other hand, despite series of advocacy efforts made by the national and international child rights NGOs and UN agencies the GoB is yet to ratify the ILO Convention 138 and C189.

#### **Key recommendations**

- Strong advocacy would be required to materialize the Government's commitment towards establishing a separate



Directorate for children. This will help to address the child rights issues in a more focused way.

- Concerted efforts would be required to make the government responsible and accountable to fulfil its commitment towards preventing and eliminating hazardous forms of child labour by 2021 as set by the government in alignment with the SDG target.
- Continuous efforts should be made to convince the relevant Government policy makers to ratify the ILO C138 and C 189.

### **National laws, policies and regulations**

**The Constitution of Bangladesh:** Article 15, 17 and 34 of the Constitution of the People's Republic of Bangladesh are directly linked with the child labour issue. Article 15 guarantees the social security and right to reasonable standard of living of all citizens. Article 17 guarantees free and compulsory education for the children. Article 34 prohibits the forced labour and slavery. However, the GoB is yet to fulfill its constitutional obligations towards ensuring the rights of all children, including child labourers.

**The Labour Act 2006 (Amended in 2018):** The Labour Act 2006 prohibits employment for "children" below the age of 14 years and hazardous work for "adolescent" below the age of 18 years. The Act allows children between 14 – 18 years for light work with health certificate from the appropriate authority.

**The Primary Education (Compulsory) Act 1990:** This Act aimed at ensuring compulsory primary education for all children between 6-10 years of age. The Act made a provision that if any guardian fails three times in a row to comply with an order given under section 5 (7), he shall be punished with a fine of not more than 200 Taka, which is very insignificant. The Act also made another punishment provision saying if any committee fails to accomplish its duties under this Act, any of its members shall be punished with a fine of not more than 200 Taka.

**The Children Act 2013:** Some of the special features of the new Children Act includes diversion of children in conflict with the law, ensuring alternative care, setting up minimum standard of care, establishing child friendly desk at police stations, formation of Children's Board at national, district and Upazilla level, identifying duties and responsibilities of the probation Officers, expediting case management process etc. Section 4 of the Children Act defined child as anyone up to the age of 18 years.

**The Child Marriage Restraint Act 2016:** The Child Marriage Restraint Act prohibits marriage of minors. The Act defines "Minor" in case of marriage, a person who, if male, has not completed 21 years of age, and if female, has not completed 18 years of age. The Act also kept punishment provision for persons involved in contracting child marriage. If any adult, male or female, contracts a child marriage, it shall be an offence, and for this, he shall be punished with imprisonment which may extend to 2 years, or with fine which may extend to 1 lakh Taka, or with both, and in default of payment of the fine, shall be punished with imprisonment which may extend to 3 months.

**The Human Trafficking Deterrence and Suppression Act 2012:** This Act criminalizes all forms of human trafficking and punishes the offence of trafficking with 5 years to life imprisonment and a fine. Furthermore, the Act explicitly criminalizes forced labour and debt bondage, and prescribes a penalty ranging from 5 to 12 years' imprisonment and a fine.

**The National Child Labour Elimination Policy (NCLEP) 2010:** The NCLEP was adopted to prevent and eliminate child labour, especially hazardous forms of child labour. The NCLEP aimed at withdrawing working children from different forms of occupations, including the hazardous work and the worst forms of child labour, involving parents of working children in income generating activities with a view of getting children out of the vicious cycle of poverty, offering stipends and grants in order to bring the working children back to school, extending special attention for the children affected by various natural disasters, providing special

emphasis for ethnic minority and children with disabilities to bring them back to congenial environment, enacting pragmatic laws and strengthening institutional capacity for the enforcement of the laws and planning and implementing short, medium and long term strategies and programs to eliminate various forms of child labour by 2015.

**National Plan of Action (NPA):** The NPA was formulated to implement the National Child Labour Elimination Policy (NCLEP) 2010. The NPA has indicated responsible institutions to implement different activities.

**The Domestic Workers Protection and Welfare Policy (DWPWP):** The DWPWP was adopted in 2015 to protect the rights and welfare of a large number of child and adult domestic workers in the country. According to the policy, no child under the age of 14 years shall be employed for domestic work. However, in especial cases, children 12 years of age can be employed provided the work is not harmful for the child or it will not prevent him/her from getting education.

**The list of hazardous work for children:** The list of hazardous work for children was determined by the government in March 2013 as a follow up to the ratification of the ILO Convention No. 182 on the worst forms of child labour. A total of 38 work has been determined by the Government.

**The National Children Policy, 2011:** The National Children Policy was adopted by repealing the National Children Policy 1994 with a spirit to accommodate the changed scenario in different sectors of the country, as well as accommodating the principles and provisions of the UNCRC. The main principles of the National Children Policy have been defined as non-discrimination, best interest of children, respecting children's opinions and ensuring children's participation and ensuring transparency and accountability of all individuals and institutions responsible for realizing child rights. The Policy has given special emphasis on children's right to health, education, cultural activities and leisure,

birth registration and identity, protection, special rights of the children with disabilities, rights of the minority and ethnic minority children and rights of the adolescents and their development.

**The National Education Policy 2010:** The Education Policy 2010 was adopted for the first time in Bangladesh in order to ensure quality education for all children. The Education Policy puts emphasis on hundred per cent enrolment and retention of students at primary and secondary levels. The most important feature of the new education policy is to extend compulsory primary education up to grade eight with scope for vocational education at primary level and inclusion of pre-school in all government primary schools.

**Seventh Five Year Plan:** Chapter 14 of the Seventh Five Year Plan (Social Protection, Social Welfare and Social Inclusion) has included a section on child labour under Social Inclusion. It says "Effective measures will be taken to reduce child labour and eliminate worst forms of child labour with a particular focus on child domestic workers, migrants, refugees and other vulnerable groups. In this context, a policy for children in the formal sector focusing on those caught up in the worst forms of child labour will be formulated.

#### **Major gaps in the existing laws, policies and regulations**

- The Labour Act 2006 is only applicable for the formal sector employees and employers. However, as mentioned earlier more than ninety percent of the children engaged in hazardous work are found in the informal sector. As a result, majority of the children in hazardous work will not be protected by the Labour Act. Another limitation of the Labour Act is definition of child, which is inconsistent with the UNCRC and other national legislations, such as, Children Act 2013, National Children Policy 2011.
- The Compulsory Primary Education Act covers only the permanent dwelling children to get admission in the primary education classes. In the urban context it is difficult to cover

children particularly who live in the slum or families who live in pavements do not have address and they move from one place to another.

- The Children Act 2013 provides a definition of the disadvantaged children, however, one of the most important groups of disadvantaged children is the working children and they were left out in this definition. As a result, the Children Act 2013 may not be relevant for the working children at all.
- The Child Marriage Restraint Act 2017 legally permits child marriage (between male below 21 and female below 18) under a "special circumstances" provision when it is deemed in the best interests of the marrying children and a court order in this regard is obtained by the parents or guardians.
- The definition of child is one of the significant limitations of the National Child Labour Elimination Policy 2010. It defines child as a person not completed 14 years of age and adolescent who has completed 14 years but fall below 18 years. This is inconsistent with the UNCRC as well as The Children Act 2013 and Children Policy 2011.
- The National Plan of Action (NPA) was formulated in 2012 to implement the NCLEP 2010 considering the then social and economic situation. After year's social and economic situations of the country, including the labour market has been changed and therefore, there is an urgent need to review both the NCLEP and NPA to make it relevant with the present time.
- The Domestic Worker Protection and Welfare Policy allow 12 years aged children for domestic work under certain conditions. This is completely against the spirit of child rights and fully inconsistent with the Labour Act and National Child Labour Elimination Policy.
- The provisions/areas of interventions kept in the Children Policy 2011 contradict with each other. On one hand, the policy allows employers to employ children for domestic work and on the other hand, the policy says that children in domestic work

should not be engaged in hazardous work. Child domestic work itself is one of the most hazardous works and therefore, it is contradictory.

- The National Education Policy does not have specific provision how to ensure education for socially and economically vulnerable groups of children. Moreover, education has not been considered as "Right".
- Child Domestic Work (CDW) was not incorporated in the list of hazardous work despite the fact that CDW is one of the most hazardous works for children. In addition, the types of hazardous work prohibited for children do not cover garment production and drying fish; both are areas of work in which there is evidence that children work in unsafe and unhealthy environments for long periods of time.
- There were some gaps in the goal set out in the Seventh Five Year Plan for reducing and eliminating child labour. The GoB aimed to develop a policy for working children engaged in worst forms of labour in the formal sector, whereas more than ninety percent children are engaged in hazardous work are found in the informal sector. Besides, the GoB aimed to have a particular focus to eliminate children from domestic work; however the child domestic work is yet to be declared as hazardous work.

#### Key recommendations

- Dialogue may be initiated with the Ministry of Labour to amend the definition of child in alignment with other national laws, which define child as any person below the age of 18 years.
- Dialogue may be organized with the relevant entities how to expand the coverage of Labour Act to address the problem of working children in the informal sector.
- Dialogue may be initiated with the Ministry of Primary and Mass Education aiming at amending the Compulsory Primary Education Act in order to make it relevant with the present time scenario.



- Efforts may be made to incorporate working children under the coverage of the Children Act 2013 under section 89 where definition of disadvantaged has been provided.
- Strong advocacy would be required to review and implement the NCLEP 2010 through the implementation of the revised NPA in order to prevent and eliminate all form of child labour with especial focus on hazardous and worst forms of child labour.
- The Child Marriage Restraint Act needs to be amended in order to integrate with other age related codes and advancing the human rights and welfare of female children, along with the facilitation of higher economic growth and a more habitable country.
- The Domestic Workers' Welfare and Protect Policy 2015 should be revised in order to raise the age for domestic work up to 18 years. Besides, Act needs to be enacted in alignment with the Policy.
- The Right to Education Act needs to be enacted in order to implement the National Education Policy.
- Urgent effort is required to incorporate child domestic work in the list of hazardous work through updating the list.

#### **Gaps between implementation bodies and laws, policies and regulation**

- The government has established institutional mechanisms for the enforcement of laws and regulations on child labor. These include The Department of Inspection for Factories and Establishments (DIFE), Bangladesh Labour Court, Bangladesh Police, National Child Labour Welfare Council, Divisional, District and Upazilla Child Labour Monitoring Committee, The National Council for Women and Children Development etc. However, gaps exist within the operations of the responsible implementation bodies.

- The Department of Inspection for Factories and Establishments (DIFE) is responsible for enforcing labor laws, including those relating to child labor and hazardous work. However, child labour monitoring has not become a priority for DIFE as of now.
- Bangladesh Labour Court is responsible for prosecutions of labor law violations, including those related to child labor, and imposes fines or sanctions against employers. However, there is hardly any allegations lodged with the Labour Court in connection with child labour law violations and number of labor courts is insufficient compare to the number of labour rights violations in the country.
- Bangladesh Police is responsible for enforcing Penal Code provisions protecting children from forced labor and commercial sexual exploitation. However, there is hardly any evidences in which the Police Officials proactively monitor and enforce Penal Code in case of forced labour.
- Several Committees that have been formed at national and local level do not have adequate capacity and knowledge to deal with child labour issues. Members of these committees are often found reluctant about discharging their roles and responsibilities in an effective manner. There is a lack of mechanism to ensure accountability of the various committees.

#### **Key recommendations**

- Efforts may be taken to provide adequate orientations to the members of the implementation bodies on the problems of child labour, existing laws and policies and their roles and responsibilities to combat child labour
- Strong efforts should be made to ensure fulfilment of government's commitment for establishing a separate Directorate for children with adequate human and financial resources.
- Provision should be made to engage a representative of DIFE at the Upazilla Child Labour Monitoring Committee in order to strengthen child labour monitoring at Upazilla level.

## 1. Background

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Child labour is one of the major problems in Bangladesh. Although Bangladesh made a moderate advancement in the fight to eliminate child labour, however, a large number of children still engaged in child labour, particularly hazardous form of child labour. According to the national child labour survey conducted by the Bangladesh Bureau of Statistics in 2013<sup>1</sup>, approximately 3.45 million working children in the country, of which 2.10 million were considered as child labourers and among them 1.28 million engaged in hazardous work. Most of the working children (93%) are found in the informal economy - an economy that - by definition - is unregulated and has no recognition or protection under any formal legal or regulatory framework.

One of the major causes of child labour in Bangladesh is economic poverty at household level. A good number of families still live below the poverty line and thus send their children to work to supplement the family income. Other causes include lack of employment opportunity for adult workers, lack of minimum wages, lack of adequate number of educational institutions and proper learning environment, cost barrier in education service delivery, low Capacity of responsible institutions, ignorance of employers and guardians about the negative effects of child labour, lack of implementation of existing laws, natural disaster etc. Prevalence of child labour in the country consistently conflicts with poverty alleviation and thereby restrains sustainable development as it is one of the major factors that enhance and influence the prevalence of poverty in a society and a nation.

Over the years the Government of Bangladesh (GoB) as well as national and international NGOs and UN agencies have taken

various steps in terms of policy formulation and implementation of projects and programs to prevent and eliminate child labour, especially hazardous forms of child labour. The GoB has ratified ILO Convention No. 182 concerning the Worst Forms of Child Labour and enacted laws and regulations related to child labour. However, gaps exist in Bangladesh's legal framework to adequately protect children from the worst forms of child labor, including the minimum age for work.

The government has also established institutional mechanisms for the enforcement of laws and regulations on child labour. However, gaps exist within the operations of implementation bodies to enforce child labour laws. As a result, the issue of child labour remains a concern in Bangladesh as most of the existing laws and policies have not been enforced in an effective manner.

Under the above-mentioned backdrop, Bangladesh Shishu Adhikar Forum (BSAF), a national network of 272 child right NGOs has taken an initiative to undertake an analysis of existing child labour related laws, policies and regulations in Bangladesh under a project supported by Manusher Jonno Foundation (MJF) aiming for protecting the rights of working children.

## 2. Specific objectives

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- Assessing the overall situation of working children in Bangladesh
- Reviewing and analyzing the existing child labor related laws, policies and regulation in order to see the gaps (if any), relevance and effectiveness of these laws and policies
- Analysis of gaps between implementation body and laws, policies and regulation
- Proposing specific recommendations for updating child labor related laws, regulations and policies (if required)

<sup>1</sup> National Child Labour Survey, 2013. Bangladesh Bureau of Statistics

### 3. Methodology

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In order to meet the specific objectives of the study all the existing national laws and policies directly or indirectly related with child labour issues were thoroughly reviewed. Besides, all relevant international child rights instruments were reviewed to understand the global standards to prevent and eliminate child labour and commitments made by the GoB at global level. In addition, a good number of relevant researches/study reports were reviewed to understand the situation of working children in Bangladesh.

Apart from the secondary documents review, some primary information were collected through Key Informants Interview (KII) from the representatives of national and international child rights NGOs and specialized UN agency to explore their opinions regarding the effectiveness of the existing child labour related laws and policies and its implementation status.

### 4. Findings

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#### 4.1 Overall situation of working children in Bangladesh

According to the National Child Labour Survey 2013,<sup>2</sup> 39.7% working children are engaged in agriculture sector, 30.9% are in service sector and 29.4% were found in industry. This indicates that highest number of children work in agriculture sector.

Agricultural activities include poultry farming, drying fish, salt mining, shrimp farming etc. Children in agriculture use dangerous tools, carry heavy loads, and apply harmful pesticides. Many children are employed by their families as extra hands in the fields or sent out to work for their own food. They

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<sup>2</sup> National Child Labour Survey, 2013. Bangladesh Bureau of Statistics

often work long hours with little to no pay and endure dangerous conditions that result in many health issues.

Second highest number of children work in service sector. Service sector activities include domestic work working in transportation, including pulling rickshaws and repairing automobiles working in tea shops and retail shops etc.

Domestic work is the single largest hazardous child labour sector in Bangladesh where approximately 4, 20,000 children, mostly girls are engaged<sup>3</sup>. The majority of children working as domestic workers work seven days a week and live in the home they serve. Separation from family and working in private homes often results in the abuse and exploitation of these children. They endure harsh working conditions that cause psychological stress, physical strain, and health issues with little pay or compensation in the form of food, clothing, and shelter.

Almost similar numbers of children work in industry. Industry activities include ship breaking, battery recycling, construction, breaking bricks and stone etc. Other informal sectors with large number of child labour include production of soap, matches, manufacturing of bidi and cigarettes, rubber products, footwear, furniture, glass, leather, restaurants, salt refining, metal, still furniture, weaving, manufacturing of aluminum, automobile workshop etc.

A good number of child labourers are also found in the garment industries of Bangladesh, especially in the sub - contracting factories (Supply chain). Children in this industry work around 10 hours a day and also exposed to various health and safety hazards. Garment factories are at great risk of fires due to blocked fire exits, poor crowd control, and lack of fire safety precautions<sup>4</sup>.

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<sup>3</sup> National Survey on Child Domestic Worker, 2007. ILO and UNICEF

<sup>4</sup> The UPR Report 2018

In addition to the above, a good number of children are exposed to worst forms of labour that include forced labor in the drying of fish and the production of bricks, commercial sexual exploitation, forced domestic work, use in illicit activities, including smuggling and selling drugs and forced begging.

On an average 70% of the children engaged in hazardous work aged 12 years or above<sup>5</sup>, among them approximately 78% boys and 22% girls (Excluding child domestic workers). Around 50% of the children never attended school and others dropped out at Grade 2 level (averaged). Only 10 % children have basic reading and writing skills. Approximately 75% are paid labourers and 25% apprentices (often without pay). Younger children engaged in low-skilled work and often exposed more hazardous conditions.

## **4.2 Review and analysis of the existing child labour related laws, policies and regulations**

### **4.2.1 International Instruments to combat child labour**

#### **United Nations' Convention on the Rights of Child (UNCRC)**

The United Nations Convention on the Rights of the Child (CRC) was adopted in 1989 and sets out the basic rights of the child. The CRC article 32 is of greatest interest to fight against child labour:

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant

<sup>5</sup> Baseline Survey on Hazardous Sector. ILO 2005

provisions of other international instruments, States Parties shall in particular:

- a. Provide for a minimum age or minimum age for admission to employment;
- b. Provide for appropriate regulation for the hours and conditions of employment;
- c. Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

The GoB ratified the CRC in 1990 and expressed its commitment at the global level to ensure the rights of the Bangladeshi children. However, as of now a large number of children, including working children are deprived of their fundamental basic rights. The GoB has taken efforts to prevent and eliminate hazardous child labour, but most of these efforts could not bring expected results due to various reasons, which has been reflected in the observations made by the UNCRC Committee.

The UNCRC Committee in their concluding observations on the Fifth State Party Report<sup>6</sup> noted that the Child Labour Elimination Policy was adopted in 2010, setting the minimum age for employment at 14 years and prohibiting children's engagement in hazardous work below the age of 18 years, the Committee remains concerned about the weak and insufficient implementation of the legislation on child labour. It is further concerned about a significant number of children being engaged in child labour, many of whom in hazardous conditions, and in domestic work where they are vulnerable to violence and sexual abuse.

#### **Recommendations:**

- Strong advocacy would be required to materialize the Government's commitment towards establishing a separate

<sup>6</sup> Concluding Observations of the UNCRC Committee, 2014



Directorate for children. This will help to address the child rights issues in a more focused way.

- Advocacy with the Government will also be required to implement Article 32 of the UNCRC concerning protection of children from child labour.

### **ILO Convention 182**

The ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour, which comprises all forms of slavery /practices similar to slavery, such as the sale and trafficking of children, debt bondage and forced or compulsory labour, the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 7 of the ILO Convention No. 182 calls upon each Member State to take effective and time-bound measures to: (a) prevent the engagement of children in the worst forms of child labour; (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration; (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour; (d) identify and reach out to children at special risk; and (e) take account of the special situation of girls.

The GoB has ratified this Convention in March 2001 and made efforts as a follow up to the ratification. This includes formulation of National Child Labour Elimination Policy (NCLEP) followed by National Plan of Action (NPA), determining the list of hazardous work etc. However, due to lack of implementation of the NPA no significant progress has been made so far.

In connection with the fulfillment of the commitment made by the GoB, in 2018 the Committee of Experts on the Application of ILO Conventions and Recommendations<sup>7</sup> noted that the Department of Inspection for Factories and Establishments (DIFE) had been expanded by recruiting an additional 262 inspectors, thereby having a total staff of 575 inspectors in 2014. The Committee notes the Government's information that, as of 2016, a total of 95 cases have been filed by the DIFE against employers having employed children in violation of section 34(1) of the Bangladesh Labour Act 2006 (as amended in 2013), which prohibits the employment of a child under 14 years of age.

The Committee also notes that, the Government indicates that the officials of the DIFE also regularly inspect shrimp and dried fish industries, the construction sector, brick factories and tanneries, however, according to the National Child Labour Survey conducted in 2013 and published in 2015, 1.28 million children aged 5 to 17 were found to be engaged in hazardous work. The Survey reveals that hazardous child labour, which is defined as working in one of the types of work listed as hazardous by law or working more than 42 hours per week, is most often found in manufacturing (39 per cent); agriculture, forestry and fishing (21.6 per cent); wholesale and retail (10.8 per cent); construction (9.1 per cent); and transportation and storage (6.5 per cent).

The Survey also reveals that children as young as 6 years of age can be found in hazardous work: 32,808 children aged 6-11 were found to be working in hazardous conditions in manufacturing, agriculture, construction, wholesale, and other service activities. Considering the significantly high number of children working in hazardous conditions, the Committee expresses its concern at the low number of cases detected by the Labour Inspectors of the DIFE, and at the fact that those cases do not include children under the age of 18 found in hazardous work.

<sup>7</sup> Report of the ILO Committee of Experts on the Application of ILO Conventions and Recommendations, 2018.



Referring to its 2012 General Survey on the fundamental Conventions (paragraph 632), the Committee recalls that strengthening the capacity of Labour Inspectors to detect children engaged in hazardous work is essential, particularly in countries where children are, in practice, engaged in hazardous work but no such cases (or only a small number of cases) have been detected by the Labour Inspectorate.

**Recommendations:**

- Concerted efforts would be required to make the government responsible and accountable to fulfill its commitment towards preventing and eliminating hazardous forms of child labour by 2021 as set by the government in alignment with the SDG target.
- The Capacity and mandate of DIFE needs to be expanded through placing adequate number of Labor Inspectors and extending child labour monitoring in the informal sector.

**ILO Convention 138**

Article -1 of the ILO Convention says, “Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons”.

Article -2 of the Convention says, “Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory. The minimum age shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years”.

Article -2 also emphasized that a Member whose economy and educational facilities are insufficiently developed may, after

consultation with the organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years. However, the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.

Despite series of advocacy efforts made by the national and international child rights NGOs and UN agencies the GoB is yet to ratify the ILO Convention 138. According to the Ministry of Labour and Employment (MoLE), the GoB does not have any plan to ratify this Convention in near future.

This Convention obliges ratifying states to provide a minimum age for work that corresponds to the end of compulsory schooling and is not below 15 years. Therefore, the objective of ensuring compulsory education for all children is being affected to a large extent and children out of school are ended up in child labour.

**Recommendation:**

- Continuous efforts should be made to convince the relevant Government policy maker to ratify the ILO C138, which would contribute to achieve the goal of compulsory primary education for all children leading to reducing child labour.

**ILO Convention 189 concerning Decent Work for Domestic Workers**

Article -3 of the ILO Convention 189 says, “Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention”. The Convention also says, Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:

- (a) Freedom of association and the effective recognition of the right to collective bargaining;

- (b) The elimination of all forms of forced or compulsory labour;
- (c) The effective abolition of child labour; and
- (d) The elimination of discrimination in respect of employment and occupation.

Article -4 of the Convention says, “Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, (No. 138), and the Worst Forms of Child Labour Convention, (No. 182), and not lower than that established by national laws and regulations for workers generally and shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training. The GoB has not ratified this Convention yet.

Ratifying this convention could be considered as a step towards ending child labour. ILO C189 require states to protect children from child labour in domestic work, while ensuring that young workers who can legally work are provided with decent work conditions and do so without compromising their education.

**Recommendation:**

- Efforts should be made to convince the government policy makers to ratify the ILO C189 to protect under aged children from domestic labour. Ratification of this convention also enables to declare child domestic work below the age of 18 years as hazardous work.

**4.2.2 National laws, policies and regulations**

**The Constitution of Bangladesh**

Article 15, 17 and 34 of the Constitution of the People’s Republic

of Bangladesh are directly linked with the child labour issue. Article 15 guarantees the social security and right to reasonable standard of living of all citizens. The Article says “It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens:

- The provision of the basic necessities of life, including food, clothing, shelter, education and medical care;
- Right to health care
- Right to shelter
- Right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work;
- Right to reasonable rest, recreation and leisure; and
- Right to social security, that is to say to public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in other such cases.

Article 17 guarantees free and compulsory education for the children. The Article says “The State shall adopt effective measures for the purpose of establishing a uniform, mass-oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law.

Article 34 prohibits the forced labour and slavery. The Article says “All forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

If we compare with the present situation in connection with these three Articles of the Constitution of Bangladesh we can easily find that the GoB is yet to fulfill its constitutional obligations.

According to a household survey conducted by Bangladesh Bureau of Statistics (BBS) in 2018, poverty rate in Bangladesh is 21.8% and 11.3% population living in extreme poverty.

With regard to the education of children, there are about 10 million out-of-school children, adolescents and youths in Bangladesh, revealed by a new UNESCO study in 2019. Some of the reasons mentioned in the paper as to why that is the case were related to their living conditions, financial constraints and social adversities. Data from the study shows that approximately 7.1 million youths and 2 million adolescents in the country are not attending school. And a significant number of children are exposed to forced labour under extreme hazardous conditions in Bangladesh.

### **The Labour Act 2006 (Amended in 2018)**

**Background:** The Labour Act 2013 has been enacted by repealing the Labour Act 2006 following long pending demand created by the Trade Unions Organizations, ILO and other trade bodies. Chapter 3 of the Labour Act deals with the child labour related issues.

#### **Key provisions of the Act:**

1. The Labour Act 2006 prohibits employment for “children” below the age of 14 years and hazardous work for “adolescent” below the age of 18 years.
2. This Act allows children between 14 – 18 years for light work with health certificate from the appropriate authority.
3. The Labour Act also prohibits hazardous work for adolescents and asked the Government to produce list of hazardous work for adolescents time to time.

#### **Gaps in the Labour Act:**

1. The Labour Act 2006 is only applicable for the formal sector employees and employers. However, as mentioned earlier

more than ninety percent of the children engaged in hazardous work are found in the informal sector. For example, more than four hundred thousand children (90% are girls) engaged in a single sector called domestic work, which is not yet recognized as formal employment. As a result, majority of the children in hazardous work will not be protected by the Labour Act.

2. Another limitation of the Labour Act is definition of child. The Labour Act divided children into two categories namely, child and adolescent. A person who has not completed 14 years is defined as child and person completed 14 years of age but below 18 years defined as adolescent. This is inconsistent with the UNCRC and other national legislations, such as, Children Act 2013, National Children Policy 2011.

#### **Recommendations:**

- Dialogue may be initiated with the Ministry of Labour to amend the definition of child in consistent with other national laws, which define child as any person below the age of 18 years.
- The Labour Act is applicable only for the formal sector and thus a large number of working children engaged in the informal sector are not being protected by this Act. Therefore, dialogue may be organized with the relevant entities on how to expand the coverage of Labour Act to address the problem of working children in the informal sector.

### **Primary Education (Compulsory) Act 1990**

Bangladesh Government enacted this Act in 1990. This Act shall support all children aged between 6-10 years to get admission in primary education.

#### **Key provisions of the Act:**

1. Age of child: In the definition of Act in section 2 of says that unless there is anything repugnant in the context the ‘child’ means as any boy or girl between 6-10 years. In general a boy

or girl of our country get admission into class one within age of 6 and complete class five within age of 10.

2. Permanent Dwelling: Sub-section (2) of Section 3 of the Act says that the guardian of any child dwelling permanently in the area can get his child admitted for the purpose of receiving primary education.
3. Section 6 of the Act says if any Committee fails to accomplish its duties under this Act, any of its members shall be punished with a fine of not more than 200 Taka.
4. Under the same section the Act says if any guardian fails three times in a row to comply with an order given under section 5 (7), he shall be punished with a fine of not more than 200 Taka.
5. In sub-section 4 of section 3 mentioned that 'In the areas where primary education shall be obligatory no person shall keep children engaged in such occupations as may prevent them from attending a primary education institute for the purpose of receiving primary education'.
6. For implementing this act and to co-ordinate, monitor and observe the progress of implementation of this act at the field level, Compulsory Primary Education Implementation Cell was created under the Ministry of Education in 1990. Subsequently the word 'Cell' was replaced by the word 'Unit'. Officials were posted in the financial year 1990-91 with the approval of the Ministry of Establishment and Finance; The Unit started preparatory activities for implementation of Compulsory Primary Education from January 1991 as a wing of the Ministry of Education.
7. Compulsory Primary Education Implementation Monitoring Unit (CPEIMU) is a unit under the Ministry of Primary and Mass Education, Government of Bangladesh. Compulsory Primary Education program has started initially in 64 Thanas on January 1, 1992 and subsequently all over the country on January 1, 1993

### Gaps in the Act:

1. The Act covers only the permanent dwelling children to get admission in the primary education classes. It may be mentioned here that the Act is suitable for the rural areas as the most dwellers are permanent in that areas. In the urban context it is difficult to cover children particularly who live in the slum or families who live in pavements do not have address and they move from one place to another. Many working children live in employers address, streets without parental care and support. These children are not covered and not clearly mentioned how they admit in primary education classes. Committees named 'obligatory primary education committee' under section 4 do not have any responsibility to cover the issues.
2. The Act made a provision that if any guardian fails three times in a row to comply with an order given under section 5 (7), he shall be punished with a fine of not more than 200 Taka, which is very insignificant.
3. The Act made another punishment provision saying if any committee fails to accomplish its duties under this Act, any of its members shall be punished with a fine of not more than 200 Taka, which is also very insignificant compare to present time situation. The Law was enacted in 1990 and needs to be amended to make it relevant with the present scenario.
4. No punishment mentioned in section 6 of the Act if a person prevents a child attending in school.
5. The Act does not mention anything about the children of vulnerable families and how to bring them school following any special effort. We know that child labour is directly linked with children's education. 90% child labour related problems could be resolved through proper achieving the goal of the compulsory primary education. Therefore, it is important to make some form of linkage between compulsory primary education policy and reducing child labour.



### **Recommendations:**

- This Act needs to be amended in order to make it relevant with the present time. For example, punishment for persons preventing a child attending school should be raised. Besides, the provision of permanent dwelling also needs to be removed.
- There should be provision in the Act to make Teachers, SMC members and other key stakeholders accountable in failing to fulfil their responsibilities.
- Dialogue may be initiated with the Ministry of Primary and Mass Education aiming at amending the Act.

### **The Children Act 2013**

Ministry of Social Welfare of Bangladesh Government has enacted this new law in 2006 by repealing the previous Children Act of 1974 as part of harmonizing the national legislation with the principles and provisions of the UNCRC.

Some of the special features of the new Children Act includes diversion of children in conflict with the law, ensuring alternative care, setting up minimum standard of care, establishing child friendly desk at police stations, formation of Children's Board at national, district and Upazilla level, identifying duties and responsibilities of the probation Officers, expediting case management process etc.

### **Key provisions of the Act:**

**Age of child:** Section 4 of the new law says a child is defined as anyone up to the age of 18 years, which is perfectly aligned with the UNCRC.

**Establishment of National, District and Upazila Child Welfare Boards:** In the law three levels of Child Welfare Boards (CWB) are indicated to form for ensuring protection of child. A separate chapter in the Act is devoted to the establishment of these Child Welfare Boards at national, district and upazila levels.

**Child Affairs Desk at the police station:** A new provision has been introduced in the law, giving the responsibility to the Ministry of Home Affairs for the establishment of a 'Child Affairs Desk' headed by a 'Child Affairs Police Officer (CAPO)', not below the rank of Sub-Inspector. It is also provided that if there is a female Sub-Inspector in the concerned police station, she shall be given priority while assigning responsibilities of the Child Affairs Desk. The responsibilities and functions of the CAPO shall include, maintaining separate files and registers for the cases involving children; where any child is brought to the police station - to inform the Probation Officer; to inform the child's parents or, in their absence, foster care or the guardian or members of his extended family and to notify them of the date for producing the child before the court along with other details of the case; to provide immediate mental support for the child; to arrange for his or her first aid and, if necessary, to send the child to a clinic or hospital; to take necessary measures to meet the basic needs of the child.

**Penalty for cruelty to child:** If any person having custody, charge or care of any child assaults, abuses, neglects, forsakes, abandons unprotected, uses for personal service or exposes in an obscene way and thereby causes unnecessary suffering or injury by which the child's sight or hearing is damaged or injury to any limb or organ or causing mental derailment, then he will be deemed to have committed an offence under this Act for which he shall be punishable with imprisonment for up to five years or fine of up to one lac (one hundred thousand) taka or both.

**Penalty for engaging a child in begging:** Any person who engages a child for the purpose of begging or causes any child to beg or if any person having custody, charge or care of the child colludes with or encourages the engaging of a child for begging then he will be deemed to have committed an offence under this Act for which he shall be punishable with imprisonment for up to five years or fine of up to one lac taka or both.

**Penalty for permitting a child to enter places where liquor or dangerous drugs are sold:** If anyone takes a child to a place



where liquor or dangerous medicines are sold or if the owner or person responsible for such a place permits a child to enter that place or if anyone causes the child to enter that place then that person shall be deemed to have committed an offence under this Act for which he shall be punishable with imprisonment for up to three years or fine of up to one lac taka or both.

**Penalty for allowing a child to be in a brothel:** Section 77(1) provides that no child over the age of four years shall be allowed or permitted to reside in or frequent a brothel. Provided that when a child exceeds the age of four years the concerned authority, upon considering him as a disadvantaged child, shall send the child to the Department or its nearest office to take necessary action as appropriate under sections 84 and 85 of the Act. Anyone who contravenes section 77(1) shall be deemed to have committed an offence under this Act for which he shall be punishable with imprisonment for up to two years or fine of up to fifty thousand taka or both.

**Penalty for leading or encouraging a child to immoral activity:** Anyone having actual charge or control of any child who leads that child on an immoral path or induces or encourages the child for prostitution or causes or encourages her to have sexual intercourse with any person other than her husband, shall be deemed to have committed an offence under the Act for which he shall be punishable with imprisonment for up to five years or fine of up to one lac taka or both.

**Penalty for using a child for carrying fire arms or illegal banned articles and for committing terrorist activities:** Anyone causing any child to carry or transport fire arms or illegal or banned articles will be deemed to have committed an offence under the Act for which he shall be punishable with imprisonment for up to three years or fine of up to one lac taka or both.

**Penalty for exploitation of child:** If any person entrusted by the Children's Court with custody or care of a child or with the duty of upbringing a child or any other person keeps any child ostensibly

for the purpose of employment as a servant or for employment in any factory or establishment under the Bangladesh Labour Act, 2006 but in fact exploits the child for own purpose, or confines the child or lives of the child's earning, then such act shall be deemed to be an offence under this law for which he shall be punishable with imprisonment for up to two years or a fine of up to fifty thousand taka or both.

**Disadvantaged children:** A child will be considered as disadvantaged where either or both of her or his parents are dead, or who is without any legal guardian, or who is without any home or means of livelihood, or who is engaged in begging or in any activity against the interest of the child, or who is dependent on parents who are in prison or who is living in a prison with the mother undergoing imprisonment, or who is a victim of sexual assault or harassment, or who is staying with the person who is a prostitute or engaged in anti-social or anti-State activities, or who is disabled, or who has behavioral disorder caused by drugs or any other reason, who has fallen into bad company or may face moral degradation or is under the risk of entering into the criminal world, or who is living in a slum, or who is homeless and living in the street, or who is effeminate (hijra), or who is a gipsy or Harijan (low caste Hindu), or who is infected or affected with HIV AIDS or who is considered by the Children's Court or the Board to be in need of special protection, care and development.

The government may take necessary measures in accordance with the procedure specified by Rules for the purpose of ensuring special protection, care and development of disadvantaged children.

#### **Gaps in the Act:**

Initially it was expected that this new legislation shall support and bring benefit for all children of the country. In the preamble of the Act states that it has been enacted for the purpose of implementing the United Nations Convention on the Rights of the Child (UNCRC). The title of the Act also gives a notion that it would address issues of all children of the country. However, this

Act is applicable only for the child either in contact or in conflict with the law or child who is brought or otherwise comes to the police station.

In the new Act there are some provisions which reflect some of the provisions of the Convention on the Rights of the Child (CRC), Beijing Rules and others. Most of these provisions cover only to dispute resolution, care & protection, alternatives and diversion of children who come into contact/conflict with law. But most importantly support to the children in different circumstances such as children involved in hazardous labour, child marriage, child trafficking, out of school children are not protected by this Act. No reference has been made to working children and child labour related laws and policies.

One section of the Act provides definition of the disadvantaged children, however, one of the most important groups of disadvantaged children is the working children and they were left out in this definition. As a result, the Children Act 2013 may not be relevant for the working children at all.

#### **Recommendations:**

- Efforts may be made to incorporate working children under the coverage of the Children Act 2013 under section 89 where definition of disadvantaged has been provided.
- Although the Children Act 2013 does not include any specific provision for working children, however, it deals with children who often come in contact with the law and many working children (children living on the street, children working in the transport sector and waste pickers) often exposed to violent activities. In that context, efforts may be made to create pressure on the relevant Govt. Ministries to protect the rights of these children through ensuring child friendly judiciary system.

#### **The Child Marriage Restraint Act 2017**

The Child Marriage Restraint Act 2017 was enacted on February

27, 2017 replacing the Child Marriage Restraint Act, 1929. Although child marriage does not have a direct link with child labour, however children married off at an early age often exposed to various forms of physical, mental and sexual abuse. The early married girls are used as round-the-clock domestic servants. They are being forced to work long hours. They're cooking, cleaning, and caring for young children of in laws house. They're being denied education and access to future employment.

#### **Key provisions of the Act**

##### **Definitions:**

1. "Minor" means, in case of marriage, a person who, if male, has not completed 21 years of age, and if female, has not completed 18 years of age.
2. "Guardian" means a person who has been appointed or declared to be a guardian, under the Guardians and Wards Act 1890 and shall also include the persons who bear the maintenance cost of a minor.
3. "Adult" means, in case of marriage, a person who, if a male, has completed 21 years of age, and if a female, has completed 18 years of age.
4. "Child marriage" means a marriage to which either or both of the contracting parties are minor.

##### **Punishment for contracting child marriage**

1. If an adult, male or female, contracts a child marriage, it shall be an offence, and for this, he shall be punished with imprisonment which may extend to 2 years, or with fine which may extend to 1 lakh Taka, or with both, and in default of payment of the fine, shall be punished with imprisonment which may extend to 3 months.
2. If any minor, male or female, contracts a child marriage, he shall be punished with detention which may extend to 1 month, or with fine which may extend to 50 thousand Taka, or with both.

### **Punishment for parents or others concerned in a child marriage**

Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnized, or negligently fails to prevent it from being solemnized, shall commit an offence, and for this, be punished with imprisonment which may extend to 2 years but not less than six months, or with fine which may extend to 50 thousand Taka, or with both, and in default of payment of the fine, shall be punished with imprisonment which may extend to 3 months.

### **Punishment for solemnizing or conducting a child marriage**

If any person solemnizes or conducts a child marriage, it shall be an offence, and for this, he shall be punished with imprisonment which may extend to 2 years but not less than six months, or with fine which may extend to 50 thousand Taka, or with both, and in default of payment of fine, shall be punished with imprisonment which may extend to 3 months.

### **Punishment for marriage Registrar for registering a child marriage**

If any Marriage Registrar registers a child marriage, it shall be an offence, and for this, he shall be punished with imprisonment which may extend to 2 years but not less than 6 months, or with fine which may extend to 50 thousand Taka, or both, and in default of payment of fine, shall be punished with imprisonment which may extend to 3 months, and his license or appointment shall be cancelled.

### **Special provision**

Notwithstanding anything contained in any other provision of this Act, if a marriage is solemnized in such a manner and under such special circumstances as may be prescribed by rules in the best

interest of the minor, at the directions of the court and with consent of the parents or the guardian of the minor, as the case may be, it shall not be deemed to be an offence under this Act.

### **Gaps in the Act**

One of the major concerns regarding this law is the special provision that allows marriage under the statutory minimum age. As per section 19 of the Act, a child marriage would not be considered an offense if it was for the interest of the underage girl.

The Child Marriage Restraint Act 2017 legally permits child marriage (between male below 21 and female below 18) under a "special circumstances" provision when it is deemed in the best interests of the marrying children and a court order in this regard is obtained by the parents or guardians.

The Majority Act of 1975 defines a citizen of age 18 or older to be an adult, not requiring a legal guardian. For the male "child adults" (between 18 and 21), the Special Provision is inconsistent with the acquisition of majority (adulthood); they are legally adults, but their parents/guardians would instead decide their best interests in a child marriage.

### **Recommendation:**

- The Child Marriage Restraint Act needs to be amended in order to integrate with other age related codes and advancing the human rights and welfare of female children, along with the facilitation of higher economic growth and a more habitable country.

### **The Prevention and Suppression of Human Trafficking Act 2012**

This Act provides for the establishment of an Anti-Human Trafficking Offence Tribunal at the district level wherein the offences under this Act shall be tried. To better implement the Trafficking Act, the Ministry of Home Affairs has formulated three

rules in 2017: the Prevention and Suppression of Human Trafficking Rule; the Human Trafficking Suppression Authority Rule; and the Human Trafficking Fund Rule.

### **Key provisions of the Act**

The Human Trafficking Deterrence and Suppression Act 2012 criminalises all forms of human trafficking and punishes the offence of trafficking with 5 years to life imprisonment and a fine. Furthermore, the Act explicitly criminalises forced labour and debt bondage, and prescribes a penalty ranging from 5 to 12 years' imprisonment and a fine. The Act also provides for the establishment of a Human Trafficking Prevention Fund, as well as a National Anti-Trafficking Authority. Additionally, the Act contains provisions on the protection and rehabilitation of victims, including access to compensation and legal and psychological counseling.

According to this Act, "If any person unlawfully forces any other persons to work against his will or compels to provide labour or service or holds in debt-bondage or to extract from the person any work or services by using force or other means of pressure or by threat to do such, he shall be deemed to have committed an offence and shall be punished with rigorous imprisonment for a term not exceeding 12 years but not less than 5 years and with fine not less than taka 50 thousand".

### **Gaps in the implementation of the Act**

As such, there is no gap in the Act; however the level of implementation of this Act is very low. The Tribunal at the district level wherein the offences under this Act shall be tried has not yet been formed. In absence of special tribunal on human trafficking, Nari O Shishu Nirjatan Daman Tribunal prosecutes the cases related to violence against children. This creates tremendous backlog of such cases. As per the Act, Counter Trafficking Committees (CTCs) at three sub-national level (District, Upazila and Union) are mostly non-functional.

To better implement the Trafficking Act, the Ministry of Home Affairs has formulated three rules in 2017: the Prevention and Suppression of Human Trafficking Rule; the Human Trafficking Suppression Authority Rule; and the Human Trafficking Fund Rule. However, the implementation status is very low. For example, As of July 2017, there were 2,663 human trafficking cases pending trial and 540 cases under investigation. According to the 2016 UNODC Global Report on Trafficking in Persons, 232 child victims of trafficking were identified by the police between May 2014 and April 2015. However, in the list of issues of 14 February 2017 in relation to the initial report of Bangladesh under article 40 of the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee pointed out that there seem to be numerous acquittals in human trafficking cases for the number of prosecutions.

### **Recommendations:**

- Efforts should be made to ensure establishment of Tribunals at district level for trial of offences of trafficking related cases.
- Functions of the Counter Trafficking Committees at sub-district level need to be strengthened
- Measures need to be taken to ensure that thorough investigations and robust prosecutions are to be carried out for persons who engage in the trafficking of children, and that sufficiently effective and dissuasive sanctions are imposed.

### **National Child Labour Elimination Policy, 2010**

The National Child Labour Elimination Policy (NCLEP) 2010 was adopted to prevent and eliminate child labour, especially hazardous forms of child labour. The NCLEP aimed at withdrawing working children from different forms of occupations, including the hazardous work and the worst forms of child labour, involving parents of working children in income generating activities with a view of getting children out of the vicious cycle of poverty, offering stipends and grants in order to bring the working children back to



school, extending special attention for the children affected by various natural disasters, providing special emphasis for ethnic minority and children with disabilities to bring them back to congenial environment, enacting pragmatic laws and strengthening institutional capacity for the enforcement of the laws and planning and implementing short, medium and long term strategies and programs to eliminate various forms of child labour by 2015.

### **Key provisions of the Policy:**

This policy has focused on nine areas of interventions. These are:

#### **1. Policy Implementation and Institutional Development**

- 1.1 Gaps in existing child labour policies are identified and new regulatory mechanisms or policies are formulated.
- 1.2 Policies related to child labour elimination are implemented, monitored and evaluated.
- 1.3 Institutional capacity of concerned institutions strengthened to effectively implement the NPA.

#### **2. Education**

- 2.1 Accessible educational facilities and opportunities for working children and poor children are ensured.
- 2.2 Access to technical vocational education and training programmes for working adolescents and their parents is provided.
- 2.3 Children are socially empowered through training and social networks.

#### **3. Health and Nutrition**

- 3.1 Access to health and nutrition education ensured for all households with working children or those at risk of sending children for labour.

- 3.2 Opportunities created to ensure access to health services.

#### **4. Social Awareness Raising and Motivation**

- 4.1 Children, parents, employers, trade unions, civil society and concerned state officials are critically aware of harmful effects of child labour and HWFCL and motivated to demonstrate positive attitude and behavioral patterns towards the elimination of child labour.
- 4.2 Community based mechanisms to prevent child labour is established and strengthened.

#### **5. Legislation and Enforcement**

- 5.1 Existing laws and rules related to child labour issues (in both formal and informal sector), are revised.
- 5.2 Child labour related laws and rules are enforced.
- 5.3 Inspection and monitoring of child labour in the informal sector and agricultural sectors are strengthened.

#### **6. Employment and Labour Market**

- 6.1 Employment opportunities created and access to labour markets ensured for adolescents who are trained and eligible for work as per legal provision.
- 6.2 Small scale income generating enterprises created through effective involvement of vocationally trained adolescents or their families.

#### **7. Prevention of Child Labour and Safety of Children Engaged in Labour**

- 7.1 Employment opportunities created for adults and parents of extreme poor and working children.
- 7.2 Children aged below 14 years are prevented from engaging in child labour and kept in school.



7.3 Working adolescents aged 14 to less than 18 years are protected from hazardous work.

7.4 Children protected from trafficking and sexual exploitation.

## 8. Social and Family Reintegration

8.1 Children withdrawn from HWFCL are reintegrated with their families or within society.

## 9. Research and Training

9.1 Information on hazardous and worst forms of child labour (WFCL) is updated for supporting the effective implementation of the National Plan of Action.

9.2 Managerial and operational capacities of concerned stakeholders in addressing child labour are enhanced.

### Gaps in the Policy:

1. The definition of child is one of the significant limitations of this policy. It defines child as a person not completed 14 years of age and adolescent who has completed 14 years but fall below 18 years. This is inconsistent with the UNCRC as well as The Children Act 2013 and Children Policy 2011.
2. The policy was adopted in 2010 with a target to eliminate child labour, especially hazardous child labour by 2015, which was not achieved at all. The MoLE has now set the new target in alignment with the SDG target. According to the new target hazardous child labour will be eliminated by 2021 and all forms of child labour will be eliminated by 2025. Therefore, provisions kept in 2010 in the policy are outdated by now.
3. The policy says the national and international organizations and donor agencies that are willing to work towards the elimination of child labour in Bangladesh should undertake and implement their respective programs and projects in line with the policy. However, no mechanism has been proposed to coordinate and monitor at the ground level. The Child Labour

Unit was partly mandated for this task, which is completely non-functional at the moment.

### Recommendations:

- The NCLEP 2010 need to be reviewed and updated in order to make it relevant with the present time, such as, age of the child should be made 18 years instead of putting two definitions (children and adolescents) to make it consistent with the UNCRC, ILO Convention No. 182 and National Laws.
- Strong advocacy would be required to implement the NCLEP 2010 through the implementation of the NPA in order to prevent and eliminate all form of child labour with especial focus on hazardous and worst forms of child labour.

### National Plan of Action on Child Labour

The National Plan of Action (NPA) was formulated to implement the National Child labour Elimination Policy (NCLEP) 2010. The NPA has focused on nine strategic areas of interventions highlighted in the NCLEP (See above). It has suggested specific interventions corresponding to the outputs under the strategic areas with specific roles and responsibilities of various government and non-government stakeholders at local and national level. The NPA also incorporated an indicative budget for its effective implementation.

### Gaps in the NPA:

1. As mentioned above, the NPA was formulated in 2012 to implement the NCLEP 2010 considering the then social and economic situation. After years social and economic situations of the country, including the labour market have been changed and therefore, there is an urgent need to review both the NCLEP and NPA to make it relevant with the present time. For example, the budget proposed for various activities in the NPA will not be appropriate after so many years. Number of working children and types of vulnerabilities may also have changed.

2. The NPA has indicated budget for each and every activities as well as proposed main responsible institutions to implement. However, no inter-ministerial mechanism has been set to ensure effective coordination among the respective institutions.
3. With regard to the allocation of resources for implementing the NPA, no specific budget has been allocated so far. According to MoLE, this is also a responsibility of many other ministries to develop programs with adequate budget for the implementation of the NPA. However, the coordination between MoLE and other responsible ministries is very weak.

**Recommendations:**

- In alignment with the revision of the NCLEP 2010, the NPA should also be reviewed and revised in order to make it relevant with the present time scenario.
- Strong advocacy effort will be required with the Ministry of Labour, Ministry of Planning and Ministry of Finance for allocating adequate financial resources for implementing the NPA as a matter of urgency.

**Domestic Workers Protection and Welfare Policy – 2015**

The Domestic Workers Protection and Welfare Policy (DWPWP) was adopted in 2015 to protect the rights and welfare of a large number of child and adult domestic workers in the country. The domestic work is not recognized by any laws and policy of the country and as a result, they are often exposed to all forms of violence, abuse and exploitations in terms of wage, working hours and working conditions, food, rest and recreation and other facilities.

**Key provisions of the policy as far as child domestic workers are concern:**

1. The policy is applicable for allover Bangladesh
2. This policy will be applicable for domestic workers, employers

and their family members, other relevant persons, organizations and members of the law enforcing agencies.

3. No child under the age of 14 years shall be employed for domestic work. However, in especial cases, children 12 years of age can be employed provided the work is not harmful for the child or it will not prevent him/her from getting education.
4. Child domestic workers should not be given any work that is heavy and dangerous compare to his/her age and ability.
5. There must be an agreement between the employer and the guardian of the adolescent domestic worker mentioning name, address, types of work, wage, working hour, rest and weekend, arrangement for getting education etc.

**Gaps in the policy:**

1. The most significant gap of this policy is that this policy allows children for domestic work. Moreover, the policy allows 12 years aged children for domestic work under certain conditions. This is completely against the spirit of child rights and fully inconsistent with the Labour Act and National Child Labour Elimination Policy. It is beyond debate that child domestic work is one of the most hazardous works due to its nature and circumstance.
2. According to the Labour Act 2006 and NCLEP 2010, no child under 14 years of age should be employed in any occupations and children under the age of 18 years should not be employed for hazardous work. Therefore, the DWPWP contradicts with both these Law and policy.

**Recommendations:**

- The Domestic Workers’ Welfare and Protect Policy 2015 should be revised in order to rise the age for domestic work up to 18 years, considering the fact that domestic work is one of the most hazardous works for children.
- Act needs to be enacted in alignment with the Policy. Because

without enacting the Act it will not be possible to implement the policy to the fullest extent.

### **National Children Policy, 2011**

The National Children Policy, 2011 was adopted by repealing the National Children Policy 1994 with a spirit to accommodate the changed scenario in different sectors of the country, as well as accommodating the principles and provisions of the UNCRC. The main principles of the National Children Policy have been defined as non-discrimination, best interest of children, respecting children's opinions and ensuring children's participation and ensuring transparency and accountability of all individuals and institutions responsible for realizing child rights. The Policy has given special emphasis on children's right to health, education, cultural activities and leisure, birth registration and identity, protection, special rights of the children with disabilities, rights of the minority and ethnic minority children and rights of the adolescents and their development.

#### **Key provisions of the Policy:**

**Definition of child:** The Children Policy 2011 defined child as any person below the age of 18 years, which is fully consistent with the UNCRC.

**Coverage:** This policy applies to all types of Bangladeshi children.

This policy has got a total of 16 areas of interventions for the betterment of all children of Bangladesh. These are:

1. Ensuring safe birth and overall development of children
2. Alleviating child poverty
3. Child health
4. Pre-primary education for children between 3 and 5 years of age
5. Child education
6. Leisure, sports and cultural activities for children
7. Child protection

8. Special initiatives for children with disabilities
9. Special programs for autistic children
10. Birth registration
11. Special programs for ethnic minorities
12. Child protection during and after disaster
13. Children's participation
14. Development of adolescents
15. Development of girl children
16. Elimination of child labour

Section 9 of the policy deals with child labour elimination related issue. The policy made 11 provisions referring National Child Labour Elimination Policy 2010 in order to gradually eliminate child labour in the country. These include:

1. Conducive environment should be made for the physical and mental development of all children. Children should not be engaged in any unsocial and humiliating activities, including hazardous labour.
2. Working children should be provided with educational facility after working hour.
3. If any child face an accident during his/her work, the employer should be made responsible for his/her treatment.
4. Children engaged in domestic work should be allowed to meet their parents at least once in a month.
5. Children in domestic work should not be asked for hazardous work.
6. Working children should be protected from all forms of abuse and exploitations.
7. Vulnerable parents of the working children should be provided with economic support to break the poverty cycle of these families.

8. Mass awareness programme should be initiated to create awareness among the parents and other stakeholders regarding the negative impact of child labour
9. There must be short, medium and long term planning and programs to eliminate child labour.

**Gaps in the policy:**

1. The provisions/areas of interventions made in the Children Policy 2011 somewhat contradicts with each other. On one hand, the policy allows employers to employ children for domestic work and on the other hand, the policy says that children in domestic work should not be engaged in hazardous work. Child domestic work itself is one of the most hazardous work (although the Govt. yet to recognize this as hazardous work). Therefore, it is contradictory.
2. The policy encourages child labour as there is no mentioning about which age group of children can work what types of work and what is the minimum age for employment as per the law of the country. As a result, it contradicts with the National Child Labour Elimination Policy and Labour Act.
3. The policy refers to the National Child Labour Elimination Policy 2010, however, it is only limited to couple of statements, which may create confusion among the duty bearers. The policy should have captured the key provisions of the National Child Labour Elimination Policy 2010 as well as detailed of the National Plan of Action. It is understood that NPA was not in place at the time of formulating this policy; however, it is important to make this policy updated especially after formulating the NPA on child labour.
4. The Children Policy 2011 does not provide any specific guideline/implementation strategy and no mentioning about required human and financial resources, except a general statement that adequate budget should be allocated in order to implement the policy.

**Recommendations:**

- Dialogues with the Ministry of Women and Children Affairs may be initiated aiming at amendment of The Children Policy 2011. As far as child labour issue is concern, the amendment should aim at capturing the key provisions of the Labour Act, National Child Labour Elimination Policy and National Plan of Action on Child Labour.
- The amendment of this policy should also address the issue of child domestic work by making specific provision that children under 18 years of age should not be employed for any hazardous work, including domestic work.

**National Education Policy, 2010**

The National Education Policy 2010 was adopted for the first time in Bangladesh in order to ensure quality education for all children. The Education Policy puts emphasis on hundred per cent enrolment and retention of students at primary and secondary levels. The most important feature of the new education policy is to extend compulsory primary education up to grade eight with scope for vocational education at primary level and inclusion of pre-school in all government primary schools.

**A key provision of the policy as far as child labour is concern:**

1. Under the objective and goal of education the Education Policy says “All socially and economically disadvantaged children, including street children will be brought under the education service”.
2. Under the goal of pre-primary and primary education, the policy says “opportunity will be created to ensure quality education for all children irrespective of social and economic vulnerability, physical and mental limitations and geographical locations.

3. The policy says by 2010-11 cent percent children will be enrolled in primary education.
4. Measures will be taken to ensure equal opportunity for all children irrespective of their physical and mental disability and socio-economic conditions.
5. The duration of primary education will be eight years instead of five years.
6. School environment will be created in such a way that will attract children and method of education will be joyful and child friendly.
7. Stipend program will be introduced for children from poor families.
8. Mid -day meal will be gradually introduced in all schools.
9. Hostel facility will be made available for children of the hard to reach areas.
10. Special measures will be taken, including free admission, free education materials, mid-day meal and stipend for street children and other disadvantaged children in order to prevent them from dropped out.
11. Admission age will be expanded from 8 years to 14 years in case of non-formal education.

**Gaps in the Education Policy in connection with working children:**

1. The policy says all good things about the necessity of education and measures needs to be taken to provide education service to socially and economically vulnerable groups of children. However, there is no specific mechanism proposed in the policy as to how these will be implemented.
2. Education has not been considered as “Right”.
3. There is no guideline in the policy what special efforts will be made to provide education to working children.

4. Although the Education Policy rose the age of compulsory education from fifth grade to eighth grade, the new compulsory education age is not enforceable until the legal framework is amended to reflect the revised policy.

**Recommendations:**

- The Right to Education Act needs to be enacted in order to implement the National Education Policy.
- Specific provision for providing education to working and other vulnerable children should be included in the National Education Policy.

**List of Hazardous Work for Children**

The list of hazardous work for children was determined by the government in March 2013 as a follow up to the ratification of the ILO Convention No. 182 on the worst forms of child labour. A total of 38 works has been determined by the Government. A gazette notification was issued on 10 March 2013. According to the Labour Act 2006 and National Child Labour Elimination Policy 2010, no child/adolescent below the age of 18 years should be employed for hazardous work determined by the government.

**Gaps in the list of hazardous work:**

1. One of the significant gaps is that Child Domestic Work (CDW) was not incorporated in the list of hazardous work despite the fact that CDW is one of the most hazardous works for children. In addition, the types of hazardous work prohibited for children do not cover garment production and drying fish; both are areas of work in which there is evidence that children work in unsafe and unhealthy environments for long periods of time.
2. The Government argued that separate policy for domestic workers, including child domestic workers has already been prepared. However, the DWPWP does not discourage child labour in domestic work.



3. The list of hazardous work is supposed to be revised time to time depending on the country's labour market situation. However, since 2013 no such initiative was made and the list remained the same.

**Recommendations:**

- Immediate effort is required to incorporate child domestic work in the list of hazardous work through updating the list.
- Initiative may be taken to widely disseminate the list of hazardous work throughout the country as majority of the employers and duty bearers are totally unaware about this list.

**The SDG target**

The SDG target 8.7 refers to take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms. This target applies to primary goal no. 8 which says “Promote Sustained, Inclusive and Sustainable Economic Growth, Full and Productive Employment and Decent Work for All. The indicator set for this target is ratification and implementation of fundamental ILO labor standards and compliance in law and practice.

As far as SDG target 8.7 is concern there is hardly any achievement made as of now. According to the Bangladesh Progress Report on Sustainable Development Goals (SDGs) prepared by the Ministry of Planning in 2018, there is no official data on child labour after 2013. It may be expected that with stronger growth and elimination of extreme poverty as well as greater access to education the child labour situation will improve in the future. There has been sustained improvement in financial inclusion which will contribute to growth and poverty reduction. There has been gradual improvement in financial inclusion variables in recent years indicating increased access of households and businesses to financial services.

**Recommendations:**

- Strong concerted efforts are required to amend the existing child labour related laws and policies and ensuring its proper enforcement in order to achieve the SDG target concerning elimination of child labour.
- Short, medium and long term target needs to be developed in order to address the most important areas of child labour problems.

**The Seventh Five Year Plan:** Chapter 14 of the Seventh Five Year Plan (Social Protection, Social Welfare and Social Inclusion) has included a section on child labour under Social Inclusion (14.5). It says “Effective measures will be taken to reduce child labour and eliminate worst forms of child labour with a particular focus on child domestic workers, migrants, refugees and other vulnerable groups. In this context, a policy for children in the formal sector focusing on those caught up in the worst forms of child labour will be formulated. Working children such as waste collectors, lathe workers, brick breakers, auto-workshop workers and tempo helpers will have access to learning opportunities in formal and in-formal facilities. Extreme poor households where the occurrence of child labour is highest will be covered by livelihoods interventions for adult earners”.

**Gaps in the 7<sup>th</sup> Five Year Plan**

There were some gaps in the goal set out in the Seventh Five Year Plan for reducing and eliminating child labour. First of all, the GoB aimed to develop a policy for working children engaged in worst forms of labour in the formal sector, whereas more than ninety percent children are engaged in hazardous work are found in the informal sector. This means the GoB does not have a vision to eliminate hazardous child labour from the informal sector and it proposes access to learning opportunities for child labour from few sectors, which will create confusion among the policy makers and other stakeholders. Secondly, it is good that the GoB aims to have a particular focus to eliminate children from domestic work;

however the child domestic work is yet to be declared as hazardous work. Thirdly, the Seventh Five Year plan did not mention anything about the existing National Plan of Action on child labour and did not allocate any budget for the Ministry of Labour and Employment to implement the NPA.

**Recommendations:**

- Advocacy efforts will be required to make the child labour issues strong and visible, including adequate resource allocation in the Eight Five Year Plan.
- It is important to closely work with the Ministry of Planning to orient them on child labour issues so that they can adequately address it in the upcoming Five Year Plan.

**4.3 Analysis of gaps between implementation body and laws, policies and regulation**

As mentioned earlier, the government has established institutional mechanisms for the enforcement of laws and regulations on child labor. However, gaps exist within the operations of the responsible implementation bodies. Responsibilities of the implementation bodies and identified gaps are given below.

**Department of Inspection for Factories and Establishments (DIFE)**

DIFE is responsible for enforcing labor laws, including those relating to child labor and hazardous work. However, child labour monitoring has not become a priority for DIFE for various reasons. First of all, DIFE is concentrating more on the formal sector, especially the RMG sector considering this as an economically priority sector. Secondly, the current number of Inspectors is inadequate to even monitor the formal sector. Therefore, the informal sector where more than ninety percent working children are engaged remained unattended. Considering this limitations, DIFE has recently submitted a requisition to the MoLE for additional 3500 manpower including 1800 Inspector, which is under process.

**Bangladesh Labor Court**

Bangladesh Labour Court is responsible for prosecutions of labor law violations, including those related to child labor, and imposes fines or sanctions against employers. However, there is hardly any allegation lodged with the Labour Court in connection with child labour law violations. Moreover, number of labor courts is insufficient compare to the number of labour rights violations in the country. There are only seven labour courts in the country.

**Bangladesh Police**

Bangladesh Police is responsible for enforcing Penal Code provisions protecting children from forced labor and commercial sexual exploitation. However, there is hardly any evidences in which the Police Officials proactively monitor and enforce Penal Code in case of forced labour. They only intervene when there is a severe case of violence against children in forced labour. Again, child labour is not a priority issue for law enforcement agencies and majority of them are not aware regarding child labour related laws and policies.

**National Child Labour Welfare Council**

National Child Labour Welfare Council was established as per the guideline of the NCLEP, 2010. It is the apex body which focuses on convergence and coordination among different government agencies, NGOs, employers' and workers' associations, and experts involve in implementing programmes and projects for eliminating child labour.

The Council is expected to act as a "Think-Tank" and prepare analytical review of the situation of child labour in the country. It also advises the Government on necessary actions to be taken for successfully implementing the National Policy on the Elimination of Child Labour and its National Plan of Action. The Council is also supposed to ensure effective coordination between different agencies, both government and civil society organizations, and ensure that their activities are aligned with the objectives of elimination of child labour.

### **Divisional Child Labour Welfare Council**

Chaired by the Divisional Commissioner with members from different government agencies, social partners, and concerned stakeholders of similar to the NCLWC at divisional level has been established. DCLWC is expected to coordinate and monitor the implementation of the National Plan of Action at the divisional level. The DCLWC will regularly report on the progress and achievements of the NPA implementation at divisional level.

### **District Child Labour Monitoring Committee**

District Child Labour Monitoring Committee is responsible to coordinate, facilitate and monitor the implementation of NPA at District level, report to divisional level on the information of child labour data collection and tracking systems for use in developing new policies, programmes, strategies and budget allocation on child labour and manage child labour data in the child labour tracking system.

### **Upazila Child Labour Monitoring Committee**

Upazila Child Labour Monitoring Committee is responsible to coordinate, facilitate and monitor the implementation of NPA at Upazila level, report to district level on the information of child labour data collection and tracking systems for use in developing new policies, programmes, strategies and budget allocation on child labour and manage child labour data in the child labour tracking system.

### **The National Council for Women and Children Development**

Under the guideline of the National Children Policy the National Council for Women and Children Development was formed as a high level policy and oversight body in February 2009 by merging the national Women Development Council and National Children Council headed by the Honorable Prime Minister in order to enhance coordination and increase effective use of limited resources.

The Children Policy also made a provision for appointing an Ombudsman for Children to monitor child rights related activities under national development programs as well as implementation of the UNCRC. However, the government is yet to appoint an Ombudsman for Children despite observations made by the UNCRC Committee.

### **Gaps in the functionality of the implementation bodies**

All the Committees have been formed over the last couple of years and provided with basic orientation on child labour issues in general and NPA in particular as well as their roles and responsibilities. However, the members of these committees are often found reluctant about discharging their roles and responsibilities in an effective manner.

The child labour issue is yet to get required level of attention from the highest level of the government and therefore, this is not a priority for the government officials at national and local level. In addition, there is no mechanism in place to make the government entities accountable and responsible for their non-responsiveness to a large number of working children in the country.

There is a lack of coordination and collaboration among the civil society organizations in terms of advocacy and lobbying with the relevant government agencies at local and national level, which resulted in weak advocacy towards implementation of the child labour related laws and policies. Often the NGOs are operating their projects and programs in isolation and doing bits and pieces here and there. It could have been much stronger if NGOs had strong coordination among their activities.

Lack of required level of knowledge among the members of various structures and committees regarding the actual child labour situation and possible remedy in the country is another reason for non-functionality of the committees.

The Ministry of Women and Children Affairs is solely responsible to coordinate, monitor and report on the implementation of the National Children Policy and a separate Branch has been established in the Ministry headed by a Deputy Secretary under the jurisdiction of a Joint Secretary. However, it is important to note that the MoWCA is also responsible for the betterment of the women of the country. One single ministry has been delegated for more than two third of the population who needs especial attention. Under this circumstance, MoWCA became overloaded and not being able to look after the population they are responsible for in an effective manner.

There has been a long pending demand for creating a separate Directorate for Children under MoWCA so that the child rights related issues are well planned and well managed. However, the government is yet to set up a Directorate for Children despite commitments made in several occasions at national and international level.

The National Council for Women and Children Development (NCWCD) also have failed to perform its duties and responsibilities in an effective manner. The NCWCD members hardly meet to review progress of the child rights situation and coming up with appropriate policies to address the problems of children in the country.

#### **Recommendations:**

- Efforts may be taken to provide adequate orientations to the members of the implementation bodies on the problems of child labour, existing laws and policies and their roles and responsibilities to combat child labour
- Strong efforts should be made to ensure fulfilment of government's commitment for establishing a separate Directorate for children with adequate human and financial resources.
- A mechanism needs to be developed to ensure accountability of the responsible institutions and individuals

in connection with the implementation of child labour related laws and policies

- It is important to closely work with DIFE in order to involve them in child labour monitoring in the informal sector in a strong manner.
- Provision should be made to engage a representative of DIFE at the Upazilla Child Labour Monitoring Committee in order to strengthen child labour monitoring at Upazilla level.

#### **Conclusion and way forward**

Implementation of the child labour related laws and policies at an expected level would certainly require strong political commitment from the highest level of the government along with strong knowledgebase, increased level of capacity of the responsible entities, formulation and enforcement of appropriate laws and policies and long-term programs, adequate human and financial resource allocation for implementing those programs and constant monitoring.

It has been observed that the GoB has made efforts to prepare laws and policies accommodating standards set out in international child rights instruments. However, most of these laws and policies have not been implemented in an expected manner. It happened mainly because the responsible institutions were not made accountable to discharge their duties. In many occasions, the policies were not implemented for not allocating adequate financial and human resources. In some cases, the weak institutional capacity of the responsible entities created obstacles to implement laws and policies.

Therefore, it is important for BSAF and other actors to conduct fight against child labour in Bangladesh to continue their efforts in a systematic manner targeting the key influential policy makers at local and national level. It is also important to initiate evidence based advocacy through undertaking researches and studies to make the cases much stronger.

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