

A CRITICAL ANALYSIS OF DOMESTIC AND INTERNATIONAL LAWS RELATING TO CHILD LABOUR IN BANGLADESH

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Abstract

The purpose of the present study is to investigate the effectiveness of the labour laws relating to child from national and international perspective. The study also has the importance of understating the child labour and its negative impact on the children as well as on the society. The methodology of the study is basically based on the secondary data. Documentation study is the sole data collection tool used for conducting the study. Descriptive analysis is utilised to analyse the data to attain the aim and objectives of the study. The findings of the study shows that the lack of education and awareness is affecting for the increase of child labour in this country. Several barriers such as lack of the role of local authority, lack of suitable strategy for implementation and lack of attention from the organisations are responsible for making the children work in vulnerable working condition. The amendments can be made if it is necessary and the role of local authorities can be improved to increase the efficacy of the labour laws in Bangladesh.

Keywords: Labour laws, child labour, Domestic and international laws of child labour, Child protection, Child safety net and national policy for children.

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1. Introduction

In many countries, the development strategy is persuaded by the strategy of Bangladesh because most of the third world countries have failed to keep the pace of development process. The strategy in Bangladesh is multi-dimensional, which brings the opportunity for the nation to progress further in socio-economic factors (Hossain et al. 2010; Morshed, 2007). But the most common issue for socio-economic development in Bangladesh is the labour force participation. In 2010, total 56.7 million people participate in the labour force in this country (Labour Force Survey, 2010). The concerning issue is that the number of child labour is increasing every year. We believe that the children of today are the future of our nation because the development of young generation has lot to do with the development of the country. The Children Act 1974 was designed to make the provisions of children safety and imposes penalties those who exploit child employees in the country. Ali (2011) explains that this policy has been effective for the nation to ensure suitable and satisfactory life for the children by developing several developmental measures such as National Action Plan for Children in 2005-2010.

Meanwhile Bangladesh has gained the partnership of many international organisations working for the children such as International labour Organisation (ILO) and United Nations Convention on the Rights of the Child (UNCRC). But still the control of child labour has become a concerning issue for the Government so along with the support of NGOs and the role of civil society, the nation has failed to reduce the rate of child labour. Hossain et al. (2010) claims that child Labour Elimination Policy in 2010 brings some efficient measures for the nations to take part in the elimination of child labour in the society. But it is a universal through that the domestic and international laws about child labour are not affecting as much as they are expected to. So, further evaluations are necessary to increase the impacts of these laws that can affect positively to implement the development activities supported by relevant organisations (Aktar and Abdullah, 2013).

2. Objectives of the Study

The objectives of the study can show the major purposes of conducting the study. Necessary objectives are given following.

- To understand the present condition of child labour and several causes of increasing number of child labour in Bangladesh;
- To explain the domestic and international laws regarding child labour to ensure child safety net in Bangladesh;
- To explore the impacts of the domestic and international laws related to child labour, which can help to eliminate the rate of child labour and
- To describe the limitations regarding the implementation of the domestic and international laws about child labour in Bangladesh.

3. Methodology of the Study

Methodology of the study is generally based on documentation study which is mainly conducted by the analysis of secondary data. The analysis of the laws and their impacts for child labour in this country are explained in the study. Secondary data is collected from several documents such as Bangladesh Constitution, Bangladesh Bureau of Statistics, Labour Force Survey, relevant laws of child labour, ILO Conventions, UN Convention on the Right of Child (CRC) and some other important surveys regarding child labour in Bangladesh as well as international. The collected data is explained within a descriptive analysis and thematic view so that the users can get the flexibility to understand the findings of the study.

Understanding “Child” and “Child Labour”

In 1989, United Nations “Convention on the Rights of the Child” as well as International Labour Organisation Convention 182(C182), 1999 about the Worst Form of Child Labour urge to define the concept child, that a person is mentioned as a child if he or she is under the age of 18 years. Modell and Elder (2002) describe that the present law situation and provision of different laws relating to children shows that the individuals under the age of 18 years are called as children. Bangladeshi laws have proven to be complicated in their determination of an age regime as some Acts were declared during the British period, others during the Pakistan period and a few have been developed since the birth of Bangladesh in 1971. For instance, the Children (Pledging of Labour) Act 1933 and the Employment of Children Act 1938 determine that the minimum age for children is 15 and 12, respectively. In addition to, the Factories Act 1965 states that individuals under 14 years of age are children whereas according to the Children Act

1974 a child is an individual under 16 years of age. In response to these varying laws and the lack of a uniform age regime, the highly-anticipated 2006 Bangladesh Labour Act both consolidates and abrogates all of the existing labour laws and determines that a child is an individual under the age of 14.

On the other hand, child labour is defined as the process where children participate in work but they are not allowed to. Children are entitled to lead their life with their childhood with potential dignity but child labour hinders their childhood and shatters potentiality from both physical and psychological aspects (Reavey, 2003; Rosati and Rossi, 2003). It is also believed that child labour can be defined when the work limit is crossed to the children at work. However, UNICEF, the United Nations Children's Fund, also explains child labour as work that exceeds a minimum number of hours, depending on the age of a child and on the type of work. For children aged 5 to 11, this would include at least one hour of economic work or 28 hours of domestic work per week. For the 12 to 14 age group, this would include at least 14 hours of economic work or 28 hours of domestic work per week and for children aged 15 to 17, child labour occurs when a child works at least 43 hours of economic or domestic work per week.

4. Situation of Child Labour in Bangladesh

Bangladesh bears more than 5% of the worlds' total child population, so, it is called as the hotspot for the child labour and exploitation. Bangladesh Bureau of Statistics has the data of children from 12 to 17 years old are participating at different kinds of work (Bangladesh Bureau of Statistics, 2011). Due to poor socio-economic conditions child labour is highly accepted in Bangladesh. Mainly business companies such as factories and garment industry are using children as a profit making policy because they can utilise children as their worker with low level of wage rate. The Office of Child Labour, Forced Labour, and Human Trafficking (OCFT) United States Department of Labour (2011) stated that child labour was common in Bangladesh with 10.1% of children between age 5 and 14 in work force and another 6.8% between age 7 and 14 who while going to school also work. But children of just 5 or 6 years old are also found in many workings sectors in this country. However, children of Bangladesh are involved in the worst forms of child labour, basically in agriculture and domestic service. A large number of working children earn less than 10USD per month. Two-thirds of working middle-class people

employs children as domestic aides. The children are made to do household tasks such as cooking, cleaning, washing, ironing and running errands, and even care for other children, the elderly or the disabled. They are often not paid, but work for food, lodging and old clothes. Sometime work without any kind of payment for children is also noticeable in some places, so, it brings the complete exploitation of the child labour. Hossain et al. (2010) urges that the large scale of population has caused to the extreme poverty that urges many poor families to send their children at work instead of sending them to educational institution. Thus, the companies get numerous amounts of children for work. But working at this age is never helpful for a child and it is their time to enjoy their childhood (Ali, 2011; Salmon, 2005). The natural process of development of children is never served if they start working at early ages. Many of the children at workplace face violent environment as well as unhygienic working condition, which is extremely harmful for their physical issues.

5. Causes of Child Labour

Children are not encouraged to work until they do not get affected by any factors. Both push and pull factors are responsible for the increasing number of child labour in Bangladesh. There are some useful causes of child labour explained in the figure below.

Figure 1: Causes of Child Labour

Cause	Per cent
Could not afford	27.1
Sickness	4.2
Needed for housework	13.2
Needed for family-owned farm	0.7
Needed for income-generating activities	3.5
School too faraway	6.9
Not appropriate to send girls to school	8.3
Did not want to go	27.1
Other reason	9.0
Total	100

Source: Khanam (2008). Child labour and school attendance: evidence from Bangladesh.

There are many families who cannot afford their household costs and the expenses for their children. Many children start to start to starve because of the poor socio-economic condition. The data shows that 27% of the children participate in the child labour because their families cannot afford them. Sickness is also another cause that increases the rate of child labour in this country

(Khanam, 2008). Sickness is a factor that increases the costs of the family, which inspire the parents to let their children to work. Need for housework is also a major cause of increasing number of child labour. The household work is often done by the children or young people. In many cases, the household chores are assisted by the workers who are generally young or under the age of 10 years (Orazem and Gunnarsson, 2004).

According to Khanam (2008) need of family-owned farm and income generating activities are also affecting for the increase of child labour in this country. Many children have lack of attention for the education so parents urge them to start working outside home. But the distance of the school is also a factor (Schultz, 2004). When the school is too far away from home the children lose their interest for continuing their education, thus the children get to work outside home. Many families think it is not appropriate to send the girls to school because of having superstitious mind, so, they prefer to send them at garment factory for work so that they can contribute for family income (Arends-Kuenning and Amin, 2004; Khair, 2008). And there are some other reasons that discourage the children not to go to the school so they are easily encouraged by their families to start working.

6. Domestic and International Laws relating to Child Labour

Child labour laws were basically formulated by British Government. Child labour emerged as a serious problem in England during the Industrial Revolution in 18th Century. This problem also spread to those countries who adopted with industrialization. Child labour was criticised by social reformers because it was harmful to the proper growth of children as well as welfare. Charles Dickens' novel *Oliver Twists* (1837-1839) played a great role to pass laws and regulations for child labour. Different laws, policies and regulations were passed by the British relating to child labour. As Bangladesh was British colony Bangladesh followed all those laws and regulations.

There are also some polices and legislative measures for the safety of children and elimination of child labour at the international level. These laws and regulations do not remove child labour from our society but provide certain standards for the employment of children.

Domestic laws relating to the child labours are analysed below:

The Mines Act, 1923:

This act defines a child as a person who has not completed 15 years and a young person means who has completed 15 but not 17 years of age. A young person can be employed in a mine with the fitness certificate granted by a medical practitioner. The act prohibits employment of a child in a mine or permission to work in a place which is below the ground. This act also ensured the minimum 12 consecutive hours of interval rest where 7 consecutive hours must be between 7pm and 7am.

The Children (Pledging of Labour) Act, 1933:

According to the act child is defined a person who is under the age of 15 years. The act forbids making an agreement to pledge the child labour whereby parent or guardian of a child in return for any payment or consideration. If the conditions of agreement are detrimental to child, the act makes the agreement void. The act also provides penalty for those who are responsible to make pledge the labour of child.

The Employment of Children Act, 1938:

The act considers a child who is under 15 years and not allows working in the transport of passengers, goods or mails by railway and handling of goods by within the limits of any port. This act provides permission to the age of up to 17 years in aforesaid activities but regarding this minimum 12 consecutive hours of interval rest have to be fixed which shall include 7 consecutive hours between 7pm and 7am. Surprisingly this act permits children below age of 12 years to involve in processing activities and for this purpose the act identifies workshops where children of this age group may work.

The Tea Plantation Ordinance, 1962:

There is no any specific definition of child in this ordinance but the children under the age of 12 years are not permitted to work in any tea plantation. It also focuses that a child of 12 years old or adolescent shall be allowed to work in a tea plantation with a fitness certificate that is provided by a certifying surgeon. The fitness certificate can be renewed. This Act includes provisions for the violation of Act.

The Children Act, 1974:

The sections 34 to 43 under this Act deal with children who commit anti-social activities but various aspects of child exploitation ranging from begging, exposure to drug and liquor, brothels and seduction. The Act ensures penalties on those who exploit child employees. It provides fine or imprisonment or both for those whosoever secures a child ostensibly for the purpose of menial employment for labour in a factory or establishment, but exploits the child for his own ends, withholds his earnings or lives on it. In addition to, the Act provides that whosoever secures a child ostensibly for any of the purposes mentioned above but exposes the child to the risk of seduction, sodomy, prostitution or other immoral purposes shall be brought under punishment with fine or imprisonment or with both.

Bangladesh Labour Act, 2006:

Bangladesh Labour Act, 2006 is the most outstanding legislation in Bangladesh regarding child labour where there is a special chapter on child labour. Under this law a child is defined as a person who has completed an age of 14 years and an adolescent means the person who has completed 16 years old but not 18 years old. According to this law, employment of children is totally forbidden and the adolescent must show fitness certificate for their employment. However, this law also allows the employment of a child who has completed 12 years of old in such a work which is not harmful to his health and development or interferes with education. On the other hand, this law also concerns for the working hours of a school going child. As per section 44 children's working hours must be flexible and do not interfere with their school attendance.

National Child Labour Elimination Policy, 2010:

Though there are several laws relating to child labour in the country and all the laws have tried to define child but till now there is absence of clear concept of child 'labour' or 'child labourers'. In this Policy, definitions of child and adolescents including other discussions are basically based on Bangladesh Labour Act, 2006. This Act suggests to use the term child engaged in labour instead of using child labour. The policy urges to provide a standard framework concerning education, health, working environment, specific working conditions,

recreation, treatment, and security, social awareness building for managing and reducing risks of child abuse by employers.

There are some international laws, ordinance and conventions relating to child labours. Among the various international legislatives measures on child labour, the most extensive standards are follows:

ILO Minimum Age Convention 138 (C138), 1973:

International Labour Organization arranged this convention in 1973 for the purpose of fixing the minimum age of employment. According to this Convention, the minimum age for entry into work should be minimum 15 years. Article 2(3) of the convention ensures the minimum age should not be less than age the completing compulsory schooling or 14 years under Article 2(4) for those countries where economic and educational facilities are not available at all. In developing countries children from the age of 12 are permitted for light work by the Article 7(4) of the Convention. This Convention urges ratified countries to design a national policy for removing child labour and make sure the minimum age for the admission to work. In addition to this Convention rectifies several similar ILO conventions in specific fields of labour.

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

This is the most important initiative in the history of human rights law which is designed to protect the rights of children across the world. It is the more comprehensive than other human treaty which has been appreciated by the large number of ratifications. This Convention provides the definition of child where the age of a child is below 18 years old. This Convention also asks states to ensure and protect the rights of child without any discrimination. Article 32 prohibits any activities which are harmful to proper physical growth, social development or interfere with children's education whereas Article 28 makes bound the state to provide primary education compulsory and free for all. However, this Convention plays in important role with the provision of right to play, rest and leisure under Article 31.

ILO Worst Forms Convention 182 (C182), 1999:

This Convention refers a child under the age of 18. The Convention emphasis on the urgent and fruitful steps to forbid and decrease the worst forms of child labour. The following are the worst

forms of child labour 1.) All forms of slavery and slavery-like practices, such as child trafficking, debt bondage, and forced labour, including forced recruitment of children into armed conflict; 2.) using a child for prostitution or the production of pornography; 3.) using a child for illicit activities, in particular drug production and trafficking; and 4.) hazardous work.

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

IPEC was started in 1992 in the purpose to decrease child labour through building national capacities and promoting a worldwide movement against child labour. The goal of IPEC is to prevent and eliminate any kind of child labour while the priority targets are worst forms of work. Furthermore IPEC focuses on the provision of alternatives for children and families to ensure that children truly benefit from child labour intervention.

7. Limitations of Implementing the Laws

There are many laws from national and international aspects regarding child labour and child protection system in this country. But the successful implementations of these laws are not seen in many years, which increase the opportunity for child labour and exploitation of the labour. There are some limitations of implementing the laws regarding child labour issues in Bangladesh that are discussed following.

Gaps and Weakness in Bangladesh Labour Law

The gaps and weakness in the BLL is the major cause that inspires the employers to exploit the children at work. The implementation strategy of the laws is not well defined in this provisions that brings a gap between the policy and its implementation process (Amin et al. 2004).

Employment Standards

Aktar and Abdullah (2013) explain that employment standard is not properly defined in the laws that create a limitation for the authority to implement the law successfully. The victims cannot also protest for the violation at workplace because of having the lack of employment standard in the formulation of the relevant laws.

Occupational Safety and Health

Occupational safety and health issues are not considered in the organisations because of lack of attention. According to Hossain et al. (2010) the management of the factories are not sincere about the assurance of occupational safety and health factors that leads the children to a vulnerable working condition.

Welfare and Social Protection

Welfare and social protection is not served in the developing countries. Bangladesh is not a part of the developed portion of the world that keeps the nation under the stress of some social problems such as density of population. Ali (2011) urges that when the population itself is a problem the welfare and social protection is not well served for the workers as well as child workers.

Lack of Awareness and Social Movement

Lack of awareness and social movement about the negative impacts of child labour and exploitation is another limitation that hampers the efficient implementation of the laws. If the workers and the employers are not aware about the provisions of the laws about child labour then it becomes ignorance at the workplace about the safety and rights (Khanam, 2008).

Enforcement

Enforcement of the laws is not also effective in the community because the Government is not taking part for the supervision and evaluation of understanding the barriers regarding the child protection system (Heady, 2003). If they can enforce the always properly it may help to bring positive scenario for the children at workplace.

Role of NGOs and Research

The role NGOs is necessary so that Government can take proper actions for the development of children in our country. The co-operation of the NGOs with the Government authorities is essential to increase the effectiveness of the labour laws in this country (Salmon, 2005). Most common factors and reasons of hindering the implementing the laws can be found and dealt with some research activities in relevant fields.

Role of the Local Authority

The role of local authority is not designed in the labour laws of Bangladesh. Harker et al. (2013) explain that developed countries such as England and Scotland, they have defined the role of local authorities including police within the laws regarding child protection and safety so that they can prevent the harm and injury from the community. But in Bangladesh, there is no such an action or plans taken by the authority and policy makers (Morshed, 2007).

8. Recommendations

To build a better world we cannot neglect the children because they are the future hope of a nation. Unfortunately child labour has become a sort of exploitation and for this they are not able to contribute to the nation. However, eliminating child labour is challenging task and requires financial, moral and political support from all the stages of society. Following measures can be adopted to eliminate the curse of child labour.

Eradication of Poverty

Poverty is the mother reason for creating child labour in every society and it makes bound children to get involved in employment. That is why the most effective measure is the reduction of poverty to create a child labour free society. To eradicate poverty sustainable development is needed where every citizen will get work on the basis of their skills.

The Expansion Educational Facilities

Education plays vital role to solve any socio-economic problem. As it is a social problem we cannot ignore the necessity of education. Bangladesh Government has ensured the rights of compulsory education for children by the article no-17 of constitution. So it is needed to implement this article properly.

Establishing the Child Rights

Under the articles of 27, 28, 29, 31, 34, 37, 38, 39, 40 and 41 fundamental rights of all citizens are ensured. Specially, any sort of forced labour are declared as forbidden and in case of violation of such rights legal scopes to seek remedy are available. Government should come forward to establish these regulations for the betterment of children.

Enforcement of Existing Laws

There are several domestic and international laws relating to child labour. So existing laws should be enforced and enforcement procedures have to be strengthened. Law enforcing authority must be more active and has to work without any influence or pressure.

Income Generation and employment Creation

To stop the child labour security of income is essential for the adult family members to reduce the poverty. When a family becomes unable to run properly with the income of adult members then they send their child to work for extra money.

Awareness Raising Program

Most of the people of our society are not aware about the adverse impact of child labour because of being illiterate. Government and Non-Government Organization including national level and international should come forward to raising the awareness about the causes as well as impact of child labour among mass people.

09. Conclusion

The majority of the analysis in the present study brings the scenario of child labour in Bangladesh, which is not very positive for the progress of the nation. We believe the children of today are the future of the nation but the negative impact of child labour can cause to the hindrance of development of the young generation. So, the laws regarding child labour from national and international perspective are essential but the implementation strategy needs to be efficient so that the community can get the benefits of these legal actions. The awareness among the people and the role of social movement can be increased so that child protection plan can be made for the young generation in this country.

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