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

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

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Dedication

This Research is dedicated to my Father & Mother

LETTER OF TRANSMITTAL

To
Naimul Razzaque
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Subject: Submission of Thesis Paper.

Dear Sir,

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

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

Thanking you

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CERTIFICATION

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

……

Naimul Razzaque
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Department of Law
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DECLARATION

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

_____

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ABSTRACT

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

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CHAPTER- 1

General Introduction

1.1 Introduction and Background to the study

In Bangladesh, Child Labour means who are deprive from his fundament rights and go to work from his Childhood. It's harmful to physical and mental development to Child. The Child Labour remark to the work which are- morally dangerous and harmful to Children and mentally, physically, socially problem for Child. The thousands of Child are deprived from schooling anddepriving of the opportunity to attend the school. In Bangladesh, According to The Labor Act2006, the definition of a 'Child' and an 'adolescent' is based on age: the Labour Act, determine the Child Labour who has not yet 14 but not completed his/her18 years.

Bangladesh is a deeply populated country. It's population about 164.7(2007) millions. The main reason of Child Labour due to the poverty illiteracy of parents and social structure and the Children are deprive from the primary education and fundament rights. Deprivation of Child needs such as health, nutrition, education, water, sanitation, shelter among the poor families.

Education is very important for an individual's development. No nation can development without education, education is the powerful weapon. So, therefore. it's carrying need to participate the Children for gain their basic education.

1.2 The Statement of Problem:

Child Labour another serious problem is violation of fundamental rights that means violation of education rights. Through education the poor Children and their families are given a new chance, a chance to control their own future and destiny. The Child can aware about their rights. If the chance are given them .They can learn their basic rights. Child Labour is regarded as one of the most serious problem of human rights in the country.

1.3 Significance of the study.

The aim of this research monograph is to describe analyze the elimination of Child Labour in Bangladesh. The purpose of this study is to offer a contribution to the understanding of the

linkage between education, Child Labour and poverty. As interest in Child Labour has increased over the years, so has the understanding of the relationship between education, Child Labour andpoverty. The purpose of the study we know that 25% of Child dropout from the education in Aand O level in Bangladesh and violation of the Child health, nutrition food, Mental, physical, Proper shelter, sports and self-defense, religious training, equitable treatment, and future security, its violated especially of street Child.

1.4 Research question

A) What steps should be taken for protection of Child rights?

B) What steps should be taken to reduce violation of Law and Human Rights?

C) What has been done to reduce Child Labour both from local, national and internationalstakeholders in the last decade?

D) What should be done at policy level for effective access to education for Child Laborers?

1.5 Objective of the study:

The main object of this research paper is to aware people about rights of Child as well as protection of Child rights. This study is to evaluate Child Labour in Bangladesh and how it affectsChildren's ability to access education. The study intends to take a closer look at three central concepts in relation to each other; education, Child Labour and poverty. The aim of this study is to research the awareness of the consequences of Child Labour in Bangladesh and to look at whathas been and what is being done in Bangladesh to address Child Labour both, from the local andinternational area.

It helps to discuss that what are the Child rights and how those rights are violated and what steps should be taken for protection of those rights. It helps to aware people about the laws relating to Child rights. That there are national and international laws for protection of Child rights. In our society we see that, Children's rights are neglected by the society as well as by theparents. They are not so much conscious about their rights. So, this research tries to make themunderstood the rights of Child. There are many Children who engaging in Child Labour. And can'table to go to school. This research says that those Children also have right to go to school. And

Children's rights are neglected by the society as well as by the parents. They are not so much conscious about their rights. So, this research tries to make them understood the rights of Child.

1.6 Methodology:

To make a comprehensive report of the Child Labour situation in Bangladesh the present study made use of both ordinary observation and survey findings and secondary sources. In the case of direct observation and survey findings an in depth study of the institutions was made: The international Labour Organization (ILO), Mass Line Media Centre and Bangladesh Shishu Adhikar Forum, Universal declaration of Human Rights (UDHR), United Nation Convention (UNCs), United Nation (UN), Books, Journals etc. The study also utilized secondary sources such as former studies conducted on Child Labour. Additional information on the web was also obtained to supplement the study. The sampling, qualitative research interviews, literature review, other data colleting methods, credibility or 'trustworthiness', and reliability or dependability. The data in this study plays an essential role and I will try to use the data to give an insight in the relationship between the research questions and the way the participants perceive the world around them.

1.7 Literature Review:

Johannes Norpoth, Lukas Groß, and Rahima Aktar, in their article "Child Labour in Bangladesh- An Analysis of Gaps and Weaknesses of The Existing Legal Framework". They tried to focus on the weakness of the legal framework in Bangladesh. Also, they tried to find out the implementation of the International Convention. They searched for the root cause, why Bangladesh still faces the challenge of having a large number of Children that are working under conditions considered as Child Labour, they found that the prime reason is poverty Moreover, they found out some ways to eradicate Child Labour in Bangladesh by amending the legal framework. Therefore, a possible conclusion that can be drawn from their work is that they did not ultimately focus on social prejudice and the eradication of Child Labour.[2] But I thought that it is adequate and a lot of information is included. [1]

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

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

Khakshour, Ajilian Abbasi, Sayedi, Saeidi, Khodaee in their "Child Labour facts in the worldwide: A review article". They only tried to focus on the definition and what the international convention told about Child Labour. This article has not focused on Child Labour.[3] It discussed the trade Union whether it is related to Child Labour or not. What ILO, ITUC, ECLT, etc deals with, and Role of Global Union in the Child Labour sector. Moreover, it wanted people to stand against the shortcomings to establish Child Labour rights.[2]

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

1.8 Chapterization of Study:

In my first chapter, I discuss about the introduction and background of the Child Labour, statement of problem, significance of the study, objective of the study, Research question methodology, and conclusion. And second chapter discuss about the Concept and definition of Child, Child Labour and others. And in my third chapter I discuss about the causes of Child Labour, and violation of law and human Rights of Child Labour. In my forth chapter I discuss about how to protect Childrights in Bangladesh? Its national and international perspective. In my fifth chapter I discuss about Child rights in the constitution people's republic of Bangladesh, United nation conventions and case studies on Child Labour. In my study of last chapter I discuss about conclusion and given some recommendations.

1.9 Conclusion:

Bangladesh is one of the most densely populated countries in the world. Placing presumes on land and other renounces many families in Bangladesh like in extreme poverty. Poverty is often made worse by floods in the Gauges and Brahmaputra River Deltas where Bangladesh is situated so that, poverty always knocking the door of people of Bangladesh. As a result, the poor people gives birth more and more Children and engage them to work instead of going to decrease this tendency the Government of Bangladesh.

In Bangladesh, there are approximately 49 million Children and adolescents below the age of 18 years. Bangladesh is a party of the United Nations Convention on the right of the Child (CRC). Which is a human rights treaty created specially to remove the excess and protect Childrights worldwide? I want to say that Child of today are the future of tomorrow, so, we should take proper care of them. And try to maintain and protect their rights. For this we should take proper steps, and also aware of their rights.

CHAPTER- 2

Concept and Definition

2.1 Definition of Child:

The definition of a Child under the UN Convention of the Right of the Child (CRC) Article-1, for the aim of the present treaty, a Child means every person yet who are not gain his/her majority according to the domestic law. If he/she doesn't consider the major attained the majority early age. It's called the Child,[1]

Meaning of "Child" in the English Dictionary, a boy or girl from the time of birth until he or she is an adult, or a son or daughter of any age. A Child is human being who is under age of eight years, who is incapable of take care of himself and is not has that majority of mind that he or she can take decision by own. According to oxford dictionary of law Child means a young person. But there is no definition & of a Child, the term has been used for 16 and the age of 18 each case depends on its context and wording of the statute governing it[2].

According to Bangladesh Labor Act, 2006 'Child' means who has not completed his fourteen year of age;

2.2 Who is Child Labor?

Child Labour refers to any employment of Children in any work who is not able to work according the Bangladesh Labour act is called the Child Labour. Generally work means full time commercial work. The Children are deprive from mental, physical, social, for hazard and harmful work. Employment of Children in any work that deprives Children of their Childhood, interferes withtheir basic rights.

[1] CRC Article1
[2] Oxford Dictionary of law University press.

2.3 What does mean the Child Labour?

Child Labour means a Child work. Yet who not gain her major age. Child Labour is work thatovercome a minimum number of hours, depending on the age of a Child and on the type of work. Such work is determine harmful to the Child and should therefore be banish.

For domestic work per week economic hours 28, under the minimum age of five to eleven year, fourteen hours for twelve to fourteen and for fifteen to seventeen to forty hours.

2.4 Causes behind Child Labour:

In like manner reasons for the Children are committed to work for the social norms and parent's absence of education and poverty and break of family. The Children deprive the opportunity ofeducation for basic knowledge. The Child Labour generally are very cheap then the young or applicable worker. Those this reason are increasing the Child Labour day by day. We should to chance the Child Labour for gain the compulsory of primary level education.[3]Financial constraints and the need for food, shelter and clothing drives their Children in the trap of premature Labour. When there are limited means and more mouths to feed Children are driven to commercial activities and not provided for their development needs.

2.5 Situation in Bangladesh:

Bangladesh is a densely populated poor country. Its Child population (age 0-14) is 39.40% of the total population while male and female Child population are 40.10% and 38.60% respectively (Population Census 2001) Moreover, absence of proper health care as well as malnutrition in rural areas may be viewed to be another cause of sharp difference in infant mortality between rural and urban areas. In most of the cases of death, malnutrition is an associated contributing factor. It has been reported that by international standards of protein-energy nutrition, only the 6% of the Bangladesh's under 5 Children can be considered normal. The rest are either underweight or Stunted Malnutrition. It is truly an indication of national emergency.[4] In respect of both physical and intellectual aspects, malnutrition is nothing but a crippling blow in Bangladesh that causes disaster for human development.[5] Theoretically these

[3] http://www.ChildLabour.in/causes-of-Child-Labour.htm last accessed on-23-11-2018
[4] UNISEF ,Progotir Path(Toward Progressive Path)Dhaka, 1994,p-39
[5] Md. Abu Taher, Child Labour in Dhaka City, University publication Bureau(Marketing),p-202-203

CHAPTER- 3

Reasons of Child Labour and violation of Human Rights

3.1 Causes of Child Labour:

Illiteracy of parents also causes Child Labour:

"Illiteracy" plays a vital role in increasing the rate of Child Labour in Bangladesh. Here it can observe that "No" Children "Disagreed about the impact of Illiteracy on Child Labour. Increased Cost of Education: The respondents strongly agreed that the increasing cost of education insiststheir parents not to allow their Children to go to the school and force them to start their workinglife at the very early stage of life. Here, also no respondents "Disagreed" or "Strongly Disagreed.

Unawareness of Family:

Their family's unawareness towards the harmful impacts of Child Labour in Bangladesh that is playing a vital role of increasing the rate of this practice in Bangladesh.

Family breakdown:

Migration of families, broken families, parental abuse and abandonment, all lead to Child Labour.And natural disaster effect for Children in Bangladesh.

Failing of Social Protection about Child Labour:

Bangladesh are face to face Natural disasters heavily, such as cyclones and floors are unfortunately a part of life after emergencies, Children are much more likely to have to work tosupport themselves a family. A lot of Children, if not more, are now believed to have been orphaned by Cyclone Sidr, which devastated large parts of Bangladesh's southwestern coast on 15 November, killing more than 3,000 people and rendering millions more homeless. According to the UN Children's Fund (UNICEF), of the 8.5 million people affected, about half

[11]Siddiqi, F and Patrinos,H,A (1995), Child Labor: Issues, causes and Interventions, Human Capital Development and Operations Policy (HCO), working papers no 56.

[12] **Child Labour in Bangladesh< https://en.wikipedia.org/wiki/Child_Labour_in_Bangladesh>Accessed27.11.2018**

were Children and an estimated half a million of them were under the age of five. Need for Child protection Social Assistance and Rehabilitation for Physically Vulnerable People (SARPV), another NGO in the area, said 40 percent of the total lives lost to Sidr were Children; many of those that survived were now orphans. SARPV is particularly concerned about the plight of orphaned girls. Past experience shows that Children, especially girls, in disaster-hit areas are highly vulnerable to trafficking and other forms of abuse, the NGO warned. Many Children hadlost their homes and were now displaced and feeling vulnerable; others may have also lost family members and friends. "This project intervention will help strengthen UNICEF's ongoing efforts to restore cyclone affected Children's rights to quality education and ensure a protective environment to the Children through provision of psychosocial support, as well as identificationand reunification of separated Children.

3.3 Lacks of legal protection:

There continue to be several gaps in Child Labour laws and regulations. The Bangladesh Labor Act does not cover the informal economic sectors in which Child Labour is most prevalent, including domestic work, street work, and work on small agricultural farms with fewer than five employees. Also, the types of hazardous work prohibited for Children do not cover garmentproduction and fish drying; both are areas of work in which there is evidence that Children work in unsafe and unhealthy environments for long periods of time. While the Labour law stipulates that Children older than 12 may engage in light work that does not endanger their health or interfere with their education, the law does not specify the activities or the number of hours perweek that light work is permitted. In addition, the use of Children in pornographic performancesand in the production of drugs is not criminally prohibited. There are no published laws settingthe minimum age of recruitment at 16 and setting safeguards to ensure that Children under 18 who join the state armed forces do so voluntarily. The legal framework also does not prohibit the recruitment of Children by non-state armed groups.

Although the 2010 National Education Policy raised the age of compulsory education from fifth grade (age 10) through eighth grade (age 14), the new compulsory education age is not enforceable until the legal framework is amended to reflect the revised policy. The Education Act, which was drafted in 2016, will make education compulsory through eighth grade. (age14)

3.4 Lack of Education of Parents, Especially in Mothers

Lack of education the parents neither understand what Child Labour is nor what are its effects, as such they very often encourage Children and in some cases put pressure on them to work instead of going to school, though they are not in need of work. A UNICEF survey of selected countries in Latin America, the Caribbean, South Asia and Sub-Saharan Africa finds that on average Children with uneducated mothers are at least twice more likely to be out of primary school than Children whose mothers attended primary school (UNICEF, 2010).[6]

3.5 Lack of proper implementation of the laws relating to Children:

The Children of Bangladesh seem to be lucky in the sense that a special law for them, the Children Act, was enacted in 1974 which was quite early in comparison with the emergence of the UNCRC in 1990. The Children Act 1974 provides almost all necessary rules and regulation in order to protect the rights of the Children of Bangladesh. However, it is really unfortunate that all those things are yet to be fully materialized. There is a strong link between violence against Children and proper implementation of the laws that are supposed to protect their of the Children. It has been observed that in most cases, the perpetrators easily escape the judicial procedure. As most of the Child victims belong to the poor section of the society, they cannot afford the cost (in terms of time and money) of the long process of justice.[7]

[6] Protecting Child Labor in Bangladesh under Domestic Laws<https://www.scirp.org/journal/PaperInformation.aspx?PaperID=69186>Accessed on 28.11.2018
[7] ibid

3.6 Lacks of Implementation of Children Act, 1938:

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

3.7 Violation of law and Human Rights:

Convention on the Right of the Child, 1989(CRC):

This convention is the most widely ratified convention and every country in the world, with the exception of two, have signed and agreed to abide by it. The Convention recognizes that Children, as a special and vulnerable group in society, should have a set of basic rights and protections that ensure their access to health care and education as well as legal, civil and social services that protect them from harm exploitation and abuse**.**

Article 1, Definition of a Child: Until you are eighteen, you are considered a Child and have all the rights in this convention.

Article 2, Freedom from discrimination: You should not be discriminated against for any reason, including your race, colour, sex, language, religion, opinion, religion, origin, social or economic status, disability, birth, or any other quality of your or your parents or guardian.

Article 3, the Child's best interest: All actions and decisions that affect Children should be basedon what is best for you or any Child.

Article 19, Protection from all forms of violence, abuse and neglect: Governments should ensure that you are properly care for and protect you from violence, abuse and neglect by your parents or anyone else who looks after you.

Article 32, Child Labour: The government should protect you from work that is dangerous to yourhealth or development, that interferes with your education or that might lead people to take advantage of you.

Article 33, Children and drug abuse: The Government should provide ways of protecting you from using, producing or distributing dangerous drugs.

Article 34, Protection from sexual exploitation: The government should protect you from sexual abuse.

Article 35, Protection from trafficking, sale, and abduction: The government should make sure that you are not kidnapped, sold or taken to other countries to be exploited.

Article 38, Protection of Children affected by armed conflict: If you are under fifteen (under eighteen in most European countries), governments should not allow you to join the army or take any direct part in warfare. Children in war zones should receive special protection.[8]

Universal declaration of Human Rights (UDHR):

Universal Declaration of Human Rights Agreed on December 10 1949 by the General Assembly of the United Nations. This declaration lists the fundamental rights and freedoms that every individual, without reservation, is born with. They include the right to education and the right to be free from exploitation and slavery.

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, and non-self- governing or under any other limitation of sovereignty.

Article 3: Everyone has the right to life, liberty and security of person.

Article 4: No-one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5: No-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6: Everyone has the right to recognition everywhere as a person before the law.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 23:

(1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
(2) Everyone, without any discrimination, has the right to equal pay for equal work.
(3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 25: (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and Childhood are entitled to special care and assistance. All Children, whether born in or out of wedlock, shall enjoy the same social protection.[9]

[8] Convention on the Right of the Child 1989 (CRC)

Article 26:

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to allon the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.[25]

(3) Parents have a prior right to choose the kind of education that shall be given to their Children.

Child Labour in various fields:

Generally, Bangladesh is agricultural land country. Majority people are depends on agricultural. Children are involve are difference organ of work place in our country to support their family assists their parents add money. Sometimes Children are involve hazardous work such, auricular, various, factories, restaurant etc.

Child work in Various Factories:

In Bangladesh Children are engaged in industries, workshops, tanneries, agricultural sector, transport sector, construction sector, beery factories, ship-breaking yard, restaurants and teastalls. They also work as maids and domestic servants. They are also engaged in some of the hazardous jobs where the rate of Child Labour is high, working atmosphere unhygienic, ages abnormally lowand wages unfixed (The New Nation, 2004).

[9] Universal declaration of Human Rights (UDHR) [25]
Supra note

Hazardous Child Labour:

Work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of Children." Such work is defined to include physical, psychological or sexual abuse, work underground, underwater, at dangerous heights or in confined spaces, work with dangerous machinery, work with hazardous materials, and work with long hours including night work.

Child Trafficking:

Mean 'any act or transaction whereby a Child is transferred by any person or group of persons to another for remuneration or any other consideration'. This category is different from the others in that it refers to the process that commercially exploits Children.

Child work in transportation:

There are many of the Children's are works in transportation in the capital of our country. The majority of the Children's are live in slum. They have no food, proper dresses, this Children's are work are under the age 14.[10]

Working street girls:

The action programmed was designed to develop a rehabilitation model and apply it to 100 girls on the street and/or at risk of sexual exploitation, aged 12-17, who are affected by lack of education, continuous family crisis, and isolation. The girls were withdrawn from the streets and provided with creativity development and training, with special emphasis given to family counseling and rehabilitation. Simultaneously, policy-makers, city authorities, the police a provided with creativity development and training, with special emphasis given to family counseling and rehabilitation. Simultaneously, policy-makers, city authorities, the police and.[11]

[10] Supra note
[11] Supra note

CHAPTER- 4

Protection of Child Rights in Bangladesh

4.1 Legal Provisions:

In Bangladesh, quite a good number of laws relating to the rights of Children have been in force since the time of the British rule in India. Since these laws were enacted during the

British rule in Indian region, it is likely that all the countries that were under the British rule i.e. India, Pakistan and Bangladesh might have the same band of laws. However, after independence of these countries these laws might have been amended to fulfill the requirements of the changed circumstances, but their basic structures are still intact. Therefore, the laws that are in force in relation to Children in Bangladesh may also be in application under the same title simultaneously in those countries. Ghazi Shamsur Rahman, a noted legal scholar of the country, in his book entitled "Laws Relating to Children in Bangladesh" has listed the under-mentioned laws relating to the rights of Children in the country.[12]

The Contract Act, 1872 (Act No. IX of 1872)

The act lays down "A minor is incompetent to contract. It is the settled principle of the law that a contract by a minor is a nullity and is absolutely void and not merely violable. A contract of sale with the guardian of a minor may be binding only if it was made either for legal necessity or for the benefit of the estate. A minor may sue for restitution of the property within 3 years of his attaining majority or within 12 years from the date of transaction whichever is earlier." (Majority means completion of 18 years; vide Majority Act, 1875).[30]

[12] Md.Abu Taher, ,Child Labour in Dhaka City, University publication Bureau(Marketing),p-179-180 [30]Ibid, Page -4.

The Majority Act, 1875 (Act no. IX of 1875):

According to this Act, a person attains majority when he completes the age of 18 years. But in respect of marriage, dower, divorce and adoption this law should be kept aside and as such, Personal Law i.e. Muslim Law or Hindu Law should be brought into application.[13]

The Guardians and Wards Act, 1890 (Act No. VIII of 1890):

In this Act, ward means a minor who has not completed 18 years of age and for whose person or property or both a guardian is there to look him after. According to this Act, the court having received application of the person desirous or claiming to be the guardian of the minor, may give an order for appointment of a guardian if the court is satisfied that for the welfare of the minor as well as for the upkeep of his property there should be someone to act as guardian. But the court does not have any authority to appoint a person to act as guardian against the will of the minor. If there is any violation in the prescribed duties of guardian towards the ward, the guardian shall be liable for removal from the authority entrusted to him as per provision of the Act.[14]

The Code of Criminal Procedure, 1898

The Criminal Procedure Code provides that court shall not take cognizance of the offence of a woman on charge of adultery if the complaint is not submitted by the husband of the woman. In such a situation if the husband of that woman is under 18 years of age (not eligible to file suit), in that case any other person may, with the permission of the court, submit a complaint on behalf of the said husband.[15]

[13] ibid
[14] ibid
[15] ibid,p-182

This Criminal Procedure Code enacts providing "when the person who would otherwise be competent to compound an offence is under the age of 18 years, any person competent to contract on his behalf may, with permission of the court, compound such offence".[16]

It further provides that if any person, in spite of being economically well off, legitimate or illegitimate, the District Magistrate or a Metropolitan Magistrate or any First class Magistrate upon proof of such neglect or refusal may give order to the person concerned for maintenance of his wife and Children. Further, it lays down the provision that when a person is minor but required bythe court or officer to execute a bond, the court or officer may accept a bond executed by a suretyor sureties in lieu thereof.[17]

The Child Marriage Restraints Act, 1929 (Act No. XIX of 1929):

This Act has put restriction on Child marriage. According to this Act, It has determine for a male 18 female 16 years of age will be treated as Child. The term 'Minor' has been referred to those whoof both the sexes are under 18 years of age.

The Act prescribes punishment for a person engaged in solemnizing a Child marriage. It also remarks the punishment for parents or guardians concerned in the event of their giving consent to a Child marriage. Moreover, the Act provides that a male above 18 years of age shall be liable to punishment if he gets married with a Child.[18]

The Children Act of 1974 (Act No. XXXIX of 1974):

The Act lays down provisions to deal with special offences related to Children such as "penalties for cruelty to Child, for employing Children for begging, for being drunk while in charge of Child, for giving intoxicating liquor or dangerous drug to Child, for permitting Child to enter places whereliquor or dangerous drugs are sold ...for allowing Child to be in brothel, for causing or encouraging

[16] ShamsurR.Gazi, 'the Text of Laws Relating to Children in Bangladesh" Presented on Meeting the UN Draft Convention on the Rights of the Child<Dhaka UNISCEF- Adhikar Trust, 1989, Page-5.
[17] Md. Abu Taher, ,Child Labour in Dhaka City, University publication Bureau(Marketing),p-182
[18] ibid

seduction, for exploitation of Child employees, for abetting escape of Child and youthful offenders".[19] The Act makes provision for juvenile court to deal with youthful offenders.

The Bangladesh Shishu Academy Ordinance, 1976(Ordinance No. LXXIV of 1976):

The Ordinance was promulgated with a view to bringing into full play of the creative talent of Children in the country. The Ordinance provides for establishment of an Academy in the name of 'Bangladesh Shishu Academy.' For running the Academy smoothly towards its desired goal, the Ordinance has also laid down provision for constituting a Board of Management.[20]

The Board of Management of the Academy decides diversity of its functions and makes arrangement for promotion of scientific, cultural and recreational activities of Children. The Academy also makes arrangement for paintings and dramatic performance by Children. In addition to all these, the Academy makes careful efforts for production of Children's literature with a view to making the Children familiar with literary world just at the beginning of their potential creative life.[21] In addition to the legislative enactments mentioned in the foregoing paragraphs of this section, a few more of the same relating to the rights of the Child in employment situation has been left aside. These legislative enactments provide instructions to prohibit or to regulate the employment of Child Labourers in different sectors of employment. It has, therefore, been thought logical to furnish all these legislative enactments in a separate chapter (Chapter VIII) that deals with "Combating Child Labour:[22]

[19] Shamsur R. Gazi,' the Text of Laws Relating to Children in Bangladesh" Presented on Meeting the UN Draft
[20] Md. Abu Taher, Child Labor in Dhaka City, University publication Bureau(Marketing),p-189
[21] ibid
22 ibid

4.2 International Institutions for protection of Child Rights:

i) The Universal Declaration of Human Rights (UDHR):

According to UDHR, Article: 25(2) of the declaration it is said that Childhood are entitled to specialcare and assistance. All Children whether born in or out of wedlock shall enjoy the same social protection.

ii) The International covenant on civil and political rights (ICCPR):

In Article: 24 (1) of the covenant it is said that Every Child shall have, without any discriminationas to race, sex, color, language, religion, national or social origin, Place of birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the state.

In Article: 24 (2) Said that every Child shall be registered immediately after birth and shall have a name.

In Article: 24 (3) Said that, every Child has the right to acquire a nationality.

iii)The International Covenant Economic, social and cultural Right (ICESCR):

In Article : 10 Of the covenant, it is said that, the state parties to the present covenant recognize that, special measures of protection and assistance should be taken on behalf of all Children and young person without any discrimination for reasons of parent age or other conditions Children andyoung persons should be protected from economic and social exploitation, their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal

development should be punishable by law. States should also set age limits below which the paid employment of Child Labour should be prohibited and punishable by law.

4.3 Protection of Child rights in Islam:

In Islam and under the sharia legal system the family and the Child are venerated objects of carefulprotection Islam and human rights is not an exclusively discourse of human rights from an Islamic legal perspective and in Muslim circles produces allegations about the domineering influence of western values Although it is true, to same extent that the formulation of human rights standards as they exist today originated from the west, the same cannot be true of the comprehension conceptof human rights in its whole same sense, which is deeply embedded in the teachings of Islam, andhas been at its very core.[23]

[23] www.google.com.(Protection of Child Rights in Islam) last accessed on-28-11-2018 [42]The Constitution of the People's Republic of Bangladesh, 1986.Page- 6.

CHAPTER-5

Child Rights in Bangladesh Constitution and United Nation conventions

5.1 Constitutional provisions for Child Rights in Bangladesh:

The fundamental rights of the citizens including the Children are spelled out in the Constitution of the People's Republic of Bangladesh. Articles 14, 15, 16, 17, 18, 19, constituting the fundamental principles of state policy of the Constitution have laid emphasis on ensuring compulsory primary education for the Children as well as adopting special measures for the Children who are physically and mentally challenged. The Constitution has guaranteed the fundamental rights of citizens in Articles 28, 34, 37, 38, 39, 40 and 41. Particularly, forced Labour is completely prohibited and access to legal remedy is assured in case of violation of fundamentalrights.

Article 14 of the Constitution prohibits all sorts of exploitations including workers and backward sections of the people in society.

Article 15 provides the right to basic necessities of life i.e. food, clothing, shelter, education, medical care and recreation.

All these are very much relevant to the basic demands of Children. Moreover, it ensures right to social security in case of undeserved situation suffered by Children.[42]

Article 17 of the Constitution lays down importance providing "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".[24]

[24] Ibid

Article 18 of the Constitution contains specific instructions in relation to public health and morality and thereof provides that the raising of the level of nutrition and taking care of effective measures for improvement of public health and prevention of alcoholic and other intoxicating drinks shall be regarded to be the primary duties of the state. In view of the incidence of widespread state of malnutrition among the Children in Bangladesh, the provisions of this article can be viewed as a bolstered step.[25]

Article 28 of the Constitution provides that in spite of the fact of prohibition of discrimination on grounds of religion, race, sex, caste or place of birth, the state shall not be prevented on any ground from making special provision, deemed to be necessary, in favor of Children. In this article, uppermost importance has been attached to the needs and facilities of Children so that they can grow up in a healthy environment and develop a full personality as a worthy citizen of the country.[26]

Article 34 of the Constitution contains directions of prohibition of all forms of forced Labour and also provides indication that any contravention of this provision shall be an act of punishable offence in accordance with the law. This article is very much relevant to the situation of working Children engaged in household work in urban areas in Bangladesh.[27]

5.2 United Nation conventions on the rights of the Child:

The "Convention on the Rights of the Child", the most highlighted issue at the ending decade of the 20th century as well as its history of evolution, dates back to the Geneva Declaration on the 'Rights of the Child' promulgated in 1924 and endorsed by the League of Nations. The 'Rights of the Child' also got due recognition in the International Bill of Human Rights in 1948. But the Bill of Human Rights was not that much comprehensive to protect each and every aspect of the rights of the Child. So the movement for the rights of the Child continued and got further impetus when the Declaration on the 'Rights of the Child' was adopted unanimously by the General Assembly of the United Nations on 20th November, 1959. The commemoration of the International Year of the Child, 1979 was another step forward towards realizing and disseminating the idea of the rights of

[25] Md.Abu Taher, ,Child Labour in Dhaka City, University publication Bureau(Marketing),p-187
[26] ibid
[27] ibid

the Child. All these efforts indicate that the issue of Children relating to their safeguard and basic rights were raised and discussed on different occasions of world history. But inspire of the fact of such wider concern and efforts at different international forums, the question of survival and protection of Children was not up to expectation; rather the situation of survival and protection of Children was under continuous threat. Moreover, the evidences of enormous hardship and abuse suffered by Children around the world stirred the sentiment at the international level.

In the backdrop of the circumstances stated above, the issues concerning the rights of the Child were brought to the forum of the world community again where it got the commitment to get the status of the UN Convention and finally, in line with this commitment in the year 1989, the historic "Convention on the Rights of the Child" was placed and debated in the UN General Assembly and after a threadbare discussion there, the Convention was unanimously approved by the World Body. Thus, the thirty years old the UN 'Convention on the Rights of the Child replaced Declaration on the Rights of the Child.[28]

Highlights of the Convention:

The Convention on the Rights of the Child is not only a document. It is also a formal treaty of the state parties to ensure the guarantees of the Childhood as well as the rights of the Child around the globe. The historic Convention is widely believed to be the most spelt out and "specific human rights treaty ever adopted by the Member States of the United Nations".[29]

The convention is also viewed to be the most progressive human rights treaty that provides a "universally accepted code for Children" and also provides an unchallengeable platform for advocacy and action, on behalf of Children, in all countries and in all circumstances. The Convention made a great breakthrough by incorporating directives which specifically point out that malnutrition; preventable diseases and lack of basic education are also violation of Children'srights.[30]

The solid plinth, on which the UN Convention on the Rights of the Child is built up, was the UN Declaration on the Rights of the Child adopted on November 20, 1959. The Declaration asserted

[28] Md. Abu Taher, ,Child Labour in Dhaka City, University publication Bureau(Marketing),p-191
[29] UNICEF, The state of World Children, New York.(Summary), 1995, p-11
[30] ibid

that "Mankind owes to the Child the best it has to give".[31] With a preamble to the whole, the Declaration had outlined the following ten principles:

1. The Child shall enjoy all the rights, set forth in the Declaration, without any distinction or discrimination of caste, creed or color, sex, religion, language, political or other opinion, disability, birth or other status and also of ethnic or social origin.[32]

2. The Child must have the opportunity to enjoy special protection, by law or other means, to develop physically, mentally, morally, socially and spiritually in a healthy atmosphere under the condition of freedom and dignity. In the event of enactment of laws for this purpose, the best interest of the Child shall come first and shall have the supreme consideration.[33]

3. The Child shall have the right from birth to a name and nationality.[34]

4. The Child shall have the right to the benefit of social security and shall be entitled to adequate pre-natal, natal and post-natal care to grow in health with needed medical, housing, nutritional and recreational services.[35]

5. The Child, handicapped or disabled physically, mentally or socially, shall have the right to special treatment, education, care and protection required by the particular condition whatsoever.[36]

6. The Child shall have the right to stay and grow up in the care and protection under the responsibility of his/her parents for full and harmonious development of his personality and shall not, other than exceptional circumstances, be separated from his/her mother. All states shall have the responsibility to take care of the Children without a family and also to those whodo not have adequate means to support themselves.[37]

[31] United Nation,, 1990, Centre for Human Rights: The Right of the Child, Fact Sheet No.10,Geneva,p-3
[32] ibid
[33] ibid
[34] ibid
[35] ibid
[36] ibid
[37] United Nation,, 1990, Centre for Human Rights: The Right of the Child

7. The Child shall be entitled to receive education on compulsory basis, at least at the elementary level, free of cost and education shall have to be imparted to every Child, on the basisof equal opportunity to develop his/her abilities and individual judgment along with the development of his/her responsibilities both moral and social.[38]

8. The Child shall have the privilege in all circumstances to be among the first to receive necessaryprotection and relief.[39]

9. The Child shall not be a victim of cruelty and exploitation and must be protected against all kindsof neglect. The Child shall not be permitted to have employment which may cause threat to his/her health or hindrance to his/her education, growth and development. Further, the Child shall have to be protected from being a subject of traffic in any form.[40]

10. The Child shall be brought up in an environment conducive towards understanding universal brotherhood, friendship and tolerance and shall have to be kept away from practices which may patronize religious, racial or any form of discrimination whatsoever.[41]

Which are highly helpful in understanding the nature, scope and subject matter of the Convention, such as:-

It should always be borne in mind that Child should have the chance of preparation to live in societyas a citizen and towards that end the Child should be brought up in the spirit of dignity, peace, freedom, tolerance, solidarity and equality.[42]

For concordant development and protection of the Child, traditional and cultural values should be given utmost importance.[43]

[38] ibid
[39] ibid
[40] ibid
[41] ibid
[42] Md. Abu Taher, ,Child Labour in Dhaka City, University publication Bureau(Marketing),p-195
[43] ibid

In all countries of the world, particularly in the developing countries, international cooperation is to be given due importance for improving the living condition of Children.[44]

In part I of the Convention, some articles appear to be similar to those of the Declaration on the Rights of the Child. Those are:

Article-2: No discrimination should be made in respect of status, opinions or beliefs and activities of Children.[45]

Article-7: The Child shall have the right to a name and nationality.[46]

Article-19: Appropriate measures are to be taken by the states concerned to protect the Child fromall sorts of violence, neglect or abuse.[47]

Article-28: To ensure education to every Child, compulsory primary education is to be introducedand is to be made available free of cost.[48]

Article-32: The Child shall have the right to be protected from the menace of Child Labour and economic exploitation.[49]

5.3 Convention on the Rights of the Child, 1989 (CRC) and Bangladesh Scenario:

Bangladesh is characterized by its widespread poverty situation. This situation of poverty is getting aggravated, as time goes on, causing wanton denial of human rights-and resulting in the worst suffering of the Children in all dimensions. In the spectrum of this situation, the poverty stricken Children are being deprived of their basic rights including that of education which actually teaches human being how to survive with dignity and status. It is, therefore, obvious that the unfortunate Children are ultimately being deprived of the fruits of their own potential power of creativity,

[44] Md. Abu Taher, ,Child Labour in Dhaka City, University publication Bereau(Marketing),p-195
[45] Article 31 of the UN declaration
[46] declaration Article 3 of the UN declaration
[47] Article 9 of the UN declaration
[48] Article 7 of the UN declaration
[49] Article 9 of the UN declaration

ingenuity and productivity. The irony is that their own potentiality remains unknown to themselves forever.

These unfortunate Children are found in both urban and rural areas of Bangladesh almost in the same state of misery and helplessness.[69]

Participation in work by Children is a familiar sight in urban areas in Bangladesh. This is [50]more visible at every turn of the road, particularly in Dhaka and other metropolitan cities. At every busy road crossing of Dhaka city it is very common to see young Children to run hither and thither to offer something to the pedestrians, the motorists or scoterists for money braving their way through heavy traffic. In such risky movement sometimes Children become victims of accidents. Childrenare also found to serve the customers either in roadside restaurants or in shops. Even in market places, it is also very common to see Children with basket to accost market goers requesting to hire them as coolies (locally known as mintis) to carry the purchases. Almost in every footpath in Dhaka city there are some points of shoeshine boys. Begging is another occupation where Children are found to take active part either directly or as helpers to anyone else.[51]

If anyone happens to go out late at night in Dhaka city, one cannot but see quite a good number of Children sleeping in railway platform, bus terminals, launch terminal and verandah of shops and shopping complexes with some adults who may or may not be their near and dear ones o.[52] 5.4 Case studies on Child Labour:

Case Study-One

Fahad live in Dhanmondi. He told that his father dead while he was 5 years old. He just read for two year in a NGO led school and he knows just how to write and read. But due to extreme poverty he dropped out from school and started selling “Dalpurii” which is made by his mother. And he has two sisters. His family is maintained by his income and his mother’s housekeeping income. I

[50] ibid,p-214

[51] ibid,p-214-215

[52] Md.Abu Taher, ,Child Labour in Dhaka City, University publication Bureau(Marketing),p-215

asked him “do you want to read?” his straightforward answer was “will u do my work?” I was speechless. And during school time he sells well, so that he has no option to change his work time. This work is light, but he has no alternatives until the government gives the disadvantaged easy access to schooling with proper incentives. Here lies the question of Trade-off.

Case Study- Two

Fahtema and her two little brothers to collect the dirty matterials (Iron, Plastic-bottle ,etc) in side road. These Children are working for 6 months as a group as Tokai. The girl is 13 years old named Fahtema, and the two little boys are her brothers and they collect papers, poly bags, plastics from the drain at Kolabagang lake It’s really tough to identify that their father don’t work. They along with their mother word hard to meet the food demand of five member’s family, sometimes they starve but their father don’t feel the need to work. Just to get food this young girl has to work in street with all types of risk. The whole family is totally illiterate. This smiling innocent girl has a dream to be educated and also to make her brothers educated. But she has no o options at all. Poverty is responsible for their being illiterate according to her. The goal of Education for All cannot be fulfilled until these Child Laborers are met with basic necessities of Life. Here needs a bridge between Child Labor and Education.

Case study: Three

Md .Abdul Karim, Aged12,Lives in Dhanmondi ,Dhaka with his mother and work in a Restaurant of Adi Sukrabad Hotel at Sukrabad. He work per day minimum 7/8 hours . Monthly below of average salary only 1500/taka and given three times food facilities. His vacation only Friday he attend his work regularly but ,if any single day absent from his work

The master deducted from salary 50tk.Masters behavior is very cruel. He can’t say any things against him .So, therefore, I see that he can’t free from lack of money and can’t take primary teach.

Case Study: Four

Md. Kamal Uddin, aged 13,worker in a workshop in Farmgate, He came from a village in Jamalpur District to Dhaka for livelihood. His father has second marriage but he don't support them .kamal's mother work other house. she is a housewife. Kamal is eldest brother of his family member of 4 person. His family member are consist of mother ,younger brother Jamal ,kamal and his sister Sabina. He can't study in this situation. His mother don't want to work very early age to the garage. But ,Kamal work to garage from his 10 years regularly per day 6 hours. His salary below level income only 2000 taka. It's very hard work for kamal Uddin. He wants to skillful mechanic and he wants to get the good opportunity. His employer's behavior is not bad .

Case Study: Five

Md. Morshed Alam, aged 12,lives in a slum with his parents. His Father is a rickshaw puller in the village in Khulna district. There family are consisted of father-mother, Three brothers and one sister big family. His father can't support them properly. There has no own land. They are very poor family. Morshed came to Dhaka for work to support their family so that help his father. Morshed work under employer of cover van he is helper per day income only 80tk without food cost and others. but Yet, Not completed his primary education for this condition of his family .It's very sorrows for his fortune. He left school very early Childhood age and he don't want to back. He was not a good student and he know that he can't to be a doctor or a teacher, So he decided to quit because he was convinced it's a waste of time.

CHAPTER- 6

Concluding Remarks

6.1 Recommendation:

- Work is neither all bad nor all good in its impact on Children.
- While policy, legal and helping measures Work is neither all bad nor all good in its impact on Children.
- While policy, legal and advocacy measures must essential be directed towards ensuring the overall well-being of Children, efforts must nevertheless be made to distinguish between what is good and what is not for working Children in order to develop a holistic policy framework that actually works.
- A prerequisite to any policy intervention in the area is the necessity to re-think approaches to Child Labour involving identification of priority areas for intervention in realistic ways.
- To the end, the study attempts to suggest possible future policy and some other recommendations. The promotion of universal.
- Child right related materials like posters, Bangui, booklets, leaflets, calendars, photographsmore and more.
- Electronic media can contribute a lot for protection of Child right through their variousprogrammers, like dramas news, talk shows, debates, etc.
- There should be training programs for the officers of various organizations NGOs, relatingprotection of Child rights.
- There should be new laws relating to Child right protection.
- Parents should aware and conscious about protection of Child right.
- International laws should be more specific in the field of protection of Child rights.
- There should be effective mechanism to protect Child right in Bangladesh.

- There shouldbe bindingness of International laws relating to Child rights.
- Establish monitoring mechanism, that where Child right are violated.
- Collect information's relating to violation of Child right for protect their rights.
- There are many laws in Bangladesh which says about Child right.

- Protection of right of Children in special difficult circumstances such as refugee Childrenand Children belonging to minorities.
- Ensure Children's right to life, health freedom of speech, health care, education.
- Children's right relating to their families should be protected.
- Protection of Child from exploitation.

6.2 Conclusion:

Bangladesh is one of the most densely populated countries in the world. placing presume on land and other renounces many families in Bangladesh like in extreme poverty and consequently their Children have to work long hour to work long hours for very low wages instead of going of school. For this reason, the Government takes various policies to bring these Children to school. Like if a Child goes to school then he or she will get crops from the Government.

In Bangladesh poverty is often made worse by floods in the Gauges and Brahmaputra River Deltas where Bangladesh is situated so that, poverty always knocking the door of people of Bangladesh. As a result, the poor people gives birth more and more Children and engage them to work instead of going to decrease this tendency the Government of Bangladesh and other NGOs, or Organization works of family planning. This effort works now.

- Awareness of general people of Bangladesh.
- Awareness programmer should be increased by Government, non-Governmental organizations and NGOs.
- Increase family income.
- Provide primary and secondary education for all Children's.
- Provide social service which can help the Children and their families.
- Laws relating to Child right are should be well defined.
- The laws relating to protection of Child right should be more focused on that field.
- Government should take programmer for protection of Child rights.
- There should be Child right protection office in Upzilla level.
- Bangladesh Shishu Adhiker Forum (BSAF) can arrange orientation on Child right for allregistered NGOs management staff.

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