

CHAPTER III

Child Labour, Child Rights and Child Development Plans in Bangladesh

Children are the most sensitive and dependent group of human beings. As the *New York Times Magazine* says, “one person can shape a child, and the child can shape the world”.¹ “For most of the history, and in most places, children have been cherished or used, protected or abused, but surely not viewed as leading actors on the human stage, and it is only recently that strong links have been made between the well-being of children and the well-being of the world” (Paolillo, C. D. 1996: 5). The fulfilment of the rights of the children is the best way of this expected well-being. In its way, there are some powerful obstacles and the problem of child labour is on the top of them.

3.1. The Concepts of Child, Child Work and Child Labour

3.1.1. Who is a Child?

Before assessing the interventions for working children, it is, as many child labour professionals feel, necessary to have a formal definition of the word ‘child’ as well as ‘child labour’. With its experience, the Rapid Assessment on Child Labour Situation in Bangladesh suggested that, “in the context of child labour, it is neither necessary nor easy to develop a universally accepted definition of the word ‘child’ because it is complicated by numerous factors, such as racial and climatic factors, which effect physical and mental maturity; social norms and practices; socio-economic conditions; educational system and the relevant legal context of the country” (Rahman, W. 1997: 2).

According to the *Oxford Advanced Learner’s Dictionary*, a child is a young person from birth to the age of full physical development (Hornby, A.S. 1998). To define a child, it is necessary to fix a limit of age. Accordingly, the *UN Convention on the Rights of the Child (CRC)* defined in its ‘Article 1’ that “a child means every human

¹ The *New York Times Magazine*, USA, 8th October, 1995.

being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier” (UNICEF, 1990: 45). Apart from this international standard, there are also different definitions of child relating to the laws and policies of different nations.

Table 3.1. Definition of ‘Child’ by Age in Bangladeshi Laws

<i>Legislations</i>	<i>Defined ‘child’ by age</i>
The Penal Code, 1860	7 year to under 12 year
The Divorce Act, 1869	Under the age of 16 for boys and 13 for girls
The Majority Act, 1875	Under the age of 18 years
The Code of Criminal Procedure, 1898	Under the age of 18 years
The Mines Act, 1923	A person who has not completed his/her 15 years
The Child Marriage Restraint Act, 1929	Under 21 yrs. for male & under 18 yrs. for female
The Suppression of Immoral Traffic Act, 1933	Under the age of 18 years
The Children (Pledging of Labour) Act, 1933	Under the age of 15 years
The Employment of Children Act, 1938	Under the age of 15 years
The Shops and Establishment Act, 1965	A person who has not completed 12 years of age
The Factory Act, 1965	A person who has not completed 12 years of age
The Children Act, 1974	A person under the age of 16 years
The Martial Law Regulations, 1975	A person under the age of 15 years

Source: Prepared by the author from: Rahaman, G.S. (1994); *Laws Relating to Children in Bangladesh*, (2nd edition), Bangladesh Shishu Academy, Dhaka, pp. 13-25.

There are several child-related laws in Bangladesh and these laws define childhood by different ages – from 7 years to 21 years (Table 3.1). In addition to that, as far as religious law is concerned, childhood comes to an end with the start of puberty, that is, at the age of 12 for girls and 15 for boys (UNICEF-Bangladesh, 1997a: 10). There is a wide lack of conformity of legislative provisions with respect to the various age limits set by the laws and the lack of definition of the child. However, the majority of the policies, programmes and initiatives, related to working children specially, define childhood as: “A person under the age of 14”.

3.1.2. Child Work and Child Labour:

Child work, at whatever age it may begin in primitive or technologically advanced societies, refers to adult-guided activities whose focus is the child’s maturation and enculturation into the family and society of which he or she is a part (George, I., 1990). After the age of six or seven many children are involved in household chores, fetching water, running errands, or looking after younger children. In this way they add, directly or indirectly, to the family income, and also learn about their communities and prepare themselves for responsibilities in later life (Stalker, P.1996:5) and this is called ‘child work’.

'Child labour', however, implies something different: "that young people are being exploited, or overworked, or deprived of their right to health or education – or just to childhood" (ILO/IPEC, 1994:2). Child labourers may be working in environments that are physically or morally dangerous, or they may be exposing their soft bones and growing bodies under excessive strain, causing permanent damage. Even in safer conditions, under the protection of their parents, they may be working long hours, sacrificing time and energy that they might have spent on their education, or simply on the free and formative experience of childhood (Stalker, P. 1996:5). Therefore, the exploitative harmful and hazardous child work is child labour. On the other hand, "a condition wherein a child is engage in 'light' work – activities which are neither hazardous nor exploitative, in considered 'work' rather than 'labour', and therefore is acceptable.... Work may have positive aspects to it; particularly when it affords children opportunities. Such opportunities include learning, perhaps in specific skills or in commerce. From work children can also learn about responsibility, fiscal and familial..." (Bissell & Sobhan, 1996:25). However, unfortunately, it is not always easy to draw sharp lines between benevolent child work and destructive child labour, especially in the complex socio-economic condition of Bangladesh because work has been a fact of life for a large majority of children in Bangladesh.

3.1.3. Definition of Child Labour:

Almost everywhere, age limits formally regulate children's activities; from country to country and from activity to activity. "The legal minimum age for all work in Egypt, for example, is 12, in the Philippines 14, in Hong Kong 15. Many countries make a distinction between light and hazardous work, with the minimum age for the former generally being 12, for the latter usually varying between 16 and 18. The ILO Minimum Age Convention also broadly adopts this approach, allowing light work at age 12 or 13 but hazardous work not before 18. ILO also establishes a general minimum age of 15 years– provided 15 is not less than the age of completion of compulsory schooling. This is the most widely used yardstick" (Tivari, A. 1997: 189) to identify working children by age.

Prominent labour leader of the sub-continent and the ex-President of India Mr. V. V. Giri distinguished between two senses of the term 'child labour'. The first as an economic practice and second, as a social evil. "In the first context it signifies employment of children in gainful occupations with a view to adding to the total income of the family. It is in the second sense that the term child labour is now more generally used. In assessing the nature and extent of social evil, it is necessary to take into account the character of the jobs on which children are engaged: the danger to which they are exposed and the opportunities of development of which they have been denied" (as stated by Bhaskar, M. 1997: 105).

The Operational Research Group (ORG) in India defines a working child as: "...a child falling within the 5-15 age bracket and who is at remunerative work, may be paid or unpaid and busy at any hour of the day within or outside the family...." (Rahman, M. N. 1992: 297). The Campaign Against Child Labour (CACL) of India, however, defines child labour with a wider coverage: "child labour as children prematurely leading adult lives, working with or without wages, under conditions damaging to their physical, social, emotional and spiritual development, denying them their basic rights to education, health and development. This includes children working in any sector, occupation or process, including the formal and non-formal, organized and unorganized, within or outside the family" (Vora, A. *et al.* 1997: 197).

According to D.K. Panigrahi, child labour implies:

- (i) the child is employed in a gainful occupation;
- (ii) he/she is denied of the opportunities of development both physical and mental; and
- (iii) his/her employment has negative impact on his/her development (1997: 50).

In Bangladesh, as Thérèse Blanchet observed, child labour is a hotly debated subject. It is also a very confused and ill-defined notion. In Bangla, the word '*shishu shrom*' is used to translate child labour. It takes quite a stretch of the imagination to think of children (*shishu*) as labourers (*shromik*) (1996:75). Peter Stalker observed that, when considering child labour, it is important to bear in mind that Bangladeshi culture does not have the sense of an extended and relatively uniform period of

childhood that other cultures have acquired, so the boundaries between childhood and adulthood are more blurred (1996:6). In the ‘*National Sample Survey of Child Labour in Bangladesh, 1995-96*’, the BBS defined child labour as: “...all children 5-14 years of age who were found to be working (employed) during the survey reference period” (BBS, 1996: 16).

3.2. Magnitude and Major Forms of Child Labour in Bangladesh

3.2.1. Magnitude of Child Labour in Bangladesh:

The magnitude of child labour depends on what we mean by ‘child labour’ and the age limit (minimum and maximum) that we set for admission to work. “If only the children in full-time employment are defined as child labourers, the number of child labourers will be relatively low. On the other hand, if the part-time economic activities after school hours, work during holidays and all forms of activities to assist members of the family in their economic activities, are also defined as child labour, the size of aggregate child labour will be very large, indeed” (Rahman, W., 1997: 17).

However, as far as official data are available, the extent of child labour from mid-1970s to mid-1990s is shown in Table 3.2. In 1974, the number of 5-14

Table 3.2: The Extent of Child Labour (5-14 year aged) in Bangladesh

Year	Number of child labour (in million)	% of child labour of the total labour force	Sources of data
1974	2.5	11.5	Population Census, 1974
1981	2.5	09.8	Population Census, 1981
1983-84	3.8	13.9	LFS* 1983-84, BBS
1984-85	3.8	12.1	LFS 1984-85, BBS
1989	6.1	12.2	LFS 1989, BBS
1990-91	5.8	11.3	LFS 1990-91, BBS
1995-96	6.6	11.7	CLS** 1995-96, BBS

* Labour Force Survey;

** Child Labour Survey

year-aged child labourers was 2.5 million which was 11.5 per cent of the total labour force of the country. The figure increased to 3.8 million, an increase of 1.3 million within ten years: from 1974 to 1984 – but the figure became 6.1 million in 1989, an increase of 2.3 million within 5 years only, whereas it increased by only 0.8 million within the last 5 years (1990-91 to 1995-96). So the major increasing trends were in the decade of 1980s (3.6 million, from 1981 to 1989).

The best data currently available are those contained in the 1995-96 *National Sample Survey of Child Labour in Bangladesh*, the first comprehensive national household study in this area. According to the survey (Table 3.3), there were 6.58 million child labour in 5-14 age group, which was above 19 per cent of total children in that age-group. About 12 per cent of the child labour force engaged were between 5 and 9 years and the remaining 88 per cent were between 10 and 14 years. The participation rate in the age group 10-14 was a striking 34 per cent.

Table 3.3: Child Labour Force and Participation Rate by Age and Sex in 1996
(Thousands)

Age group	Bangladesh			Urban			Rural		
	Both sex (%)	Male (%)	Female (%)	Both sex (%)	Male (%)	Female (%)	Both sex (%)	Male (%)	Female (%)
05-14	6584 (19.1)	3919 (21.9)	2665 (16.0)	1136 (15.2)	637 (16.5)	499 (13.8)	5448 (20.2)	3282 (23.4)	2166 (16.7)
05-09	767 (04.4)	433 (04.9)	334 (03.9)	109 (03.1)	58 (03.2)	51 (03.0)	658 (04.7)	375 (05.4)	283 (04.1)
10-14	5817 (34.1)	3486 (38.4)	2331 (29.2)	1027 (25.6)	579 (28.2)	448 (22.9)	4790 (36.7)	2907 (41.5)	1883 (31.2)

Source: BBS (1996); *National Sample Survey of Child Labour in Bangladesh, 1995-96*; p. 45.

About 17 per cent of the total child labour force were found to live in urban areas and the remaining 83 per cent in rural areas and 10-14 year age-group child labour were found to be 26 per cent in urban areas as compared to 37 per cent in rural areas. The average child activity participation rate within 5-14 age group was 19.1 per cent in the national level, 15.2 per cent in urban areas and 20.2 per cent in rural areas (BBS, 1996: 45). Students engaged in economic activities in their spare time were not, however, included in the survey.

3.2.2. Major Forms of Child Labour in Bangladesh:

The child labourers of Bangladesh are engaged in hundreds of different occupations. As Bert Pelto observed, they work in nearly every trade, craft and work place of the adult world except in that of the professionals and governmental bureaucracies (1997a: 2). The type of work children are engaged in, however, primarily depends on where they live – whether in rural areas or in urban areas.

In the national level, according to the child labour survey (CLS) of BBS in 1995-96, 65.4 per cent of child workers were found to be working in the agriculture sector and the remaining 34.6 per cent in other sectors including manufacturing

(8.2%), transport/communication (1.8%), other services (10.3%), and other activities (14.3%) etc. (Table 3.4).

Table 3.4: Percentage of Working Children Aged 5-14 Years by Major Sectors & Sex

Major Sectors	Bangladesh			Urban			Rural		
	Both Sex	Male	Female	Both sex	Male	Female	Both sex	Male	Female
Agriculture	65.4	67.1	63.0	22.1	21.9	22.3	74.2	75.6	72.1
Manufacturing	8.2	8.9	7.0	21.0	22.3	19.3	5.6	6.4	4.3
Transport and Communication	1.8	3.0	0.1	3.9	6.9	---	1.4	2.2	0.1
Other Services	10.3	14.4	4.1	23.5	35.7	7.8	7.6	10.4	3.3
Other activities*	14.3	6.6	25.8	29.5	13.2	50.6	11.2	5.4	20.2
Total	100.0								

* Household services, etc.

Source: BBS (1996); *National Sample Survey of Child Labour in Bangladesh 1995-96*; p.50.

Like other developing countries e.g. India, as M. Hasan and Dr. J.C. Debnath observed, in Bangladesh “ ‘girl child labour’ is a special concern within the child labour issue, because girls are more distressed in many considerations than boys” (Hasan & Debnath, 2000: 225). For example, according to the NSSCL 1995-96, it was found that 95.5 per cent of the girls were involved in the private informal sector and only 4.5 per cent in the private formal sector. Boys were in slightly better condition in this respect, i.e., almost 7 per cent were involved in the private formal sector. About three-fourth (71.2%) of the girl workers were engaged in ‘unpaid family works’ (12.8% higher than boys), which indicates their acute exploitation. It was also found that, among the regular working children, girls worked for an average of 51.0 hours a week – which was 6 hours higher than that of boys (as cited by Hasan & Debnath, 2000: 258-259).

3.3. Causes of Child Labour in Bangladesh

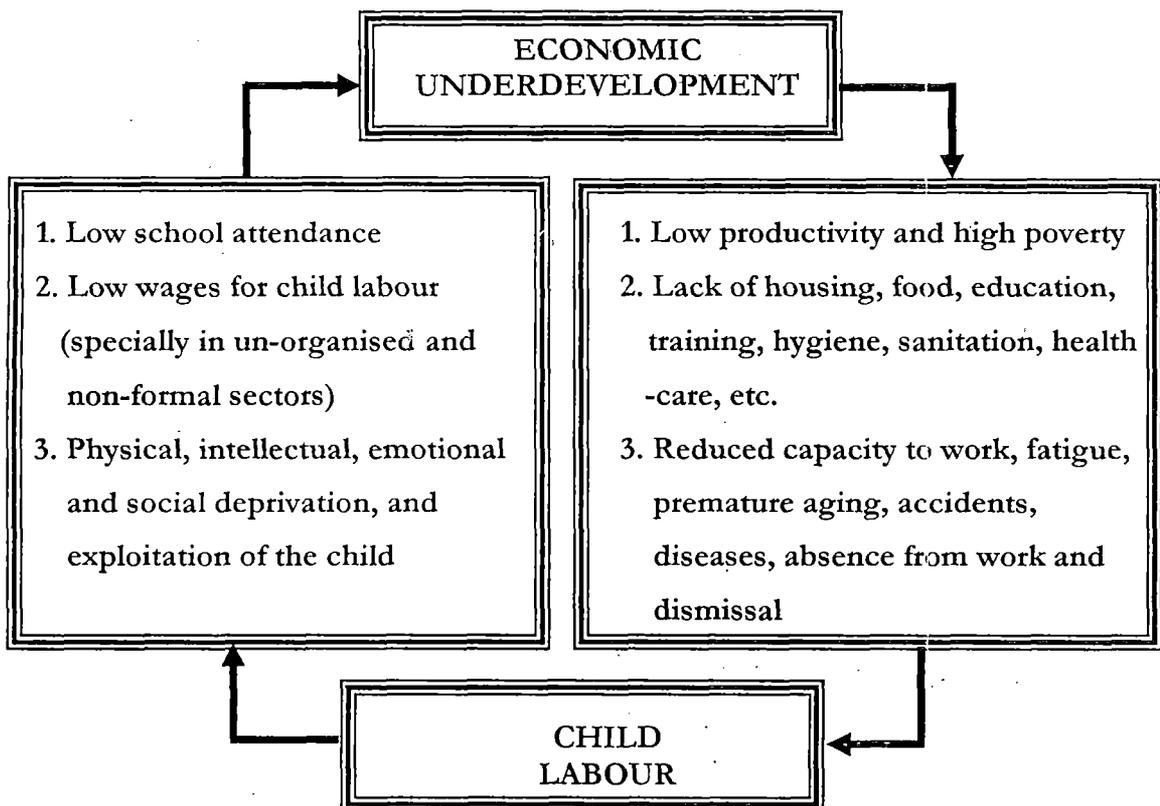
Child labour can be considered as one of the phenomena caused by underdevelopment and poverty. In this sense, child labour is not the problem – it is a symptom of the problem of poverty and inequality.

As in many other developing countries, in Bangladesh also, poverty drives many families to maximize earning by mobilizing the earnings of all family members. With extreme poverty and lack of options more and more families are inclined to engage their children in labour (GOB & UNICEF, 2000: 44). ILO/IPEC

identifies that, “Poverty, which is itself the product of under-development, is the major factor behind child labour. Children in developing countries, who account for 98 per cent of working children, work to survive and to contribute to the survival of their families. But poverty is not the only cause – culturally derived attitudes and values also help to sustain child labour” (1994: 14).

Figure 3.1 below shows the form of a succession of situations and events which are interrelated through a type of ‘Vicious Circle’ – which is quite applicable in any third world country like Bangladesh. Represented in this way, child labour

Figure 3.1: The ‘Vicious Circle’ of Economic Underdevelopment and Child Labour



Adapted from: *Action for the Elimination of Child Labour: Overview of the Problem and Response*; ILO/IPEC, 1994, Geneva, p. 15.

may be perceived as a destiny from which it is impossible to escape. Despite its simplistic nature, the primary lesson to be drawn from this representation is that child labour cannot be abolished by decree (ILO/IPEC 1994: 14).

Many of the recent studies identified that ‘poverty’ is the vital reason that drives children into work. According to the NSSCL in Bangladesh 1995-96, about 68 per cent of the working children indicated that ‘parent’s financial problem’ was the main reason for being a child labour (BBS, 1996: 56). Lack of sufficient

educational facility, traditional expectation, lack of social awareness, social injustice and criminal activities, migration, family disruption, etc. are the other reasons (Zareen & Afrin, 1998: 25-26). Indeed, the causation of child labour in Bangladesh is a complex and paradoxical factor.

In his country-wide study on child labour in 1997, Dr. Wahidur Rahman identified that child labour in Bangladesh is caused by a wide range of powerful 'push factors', 'pull factors' and 'interactive factors', and these factors have complex roots in the country's overall socio-economic conditions that include: mass poverty, rapid growth of population, especially among the poor, economic deprivation created by natural calamities, lack of access to useful primary education for the poor, prevalence of traditional social norms and values, lack of awareness about the long-term consequences of child labour, easy and under-restricted access of the children to the job market because of poor enforcement of the labour laws and the motive of the employers to maximize profit by employing cheap labour (Rahman, W. 1997: 18). With the experience of child labour situations in many Asian countries, Guy Thijs also identifies 'push factors' and 'pull factors' as the main causes of child labour (see Thijs, G. 1997: 6-9).

However, the factors which created the condition that compelled the children to earn livelihood for themselves or their families, were primarily the 'push factors'. Where the push factors were very strong and existed in a family for a long period, it became difficult for the child as well as for the family to escape child labour. One of the main push factors is economic hardship, but there are so many of them.

According to Dr. Rahman's study, the rootless rural families which had no cultivable land or any scope for employment, were forced to migrate to urban areas in search of livelihood. The elder members failed to earn enough to feed their families and were compelled to rely on the contribution of the children to the income of the family. Because of divorce, separation, polygamy or death of husband, many poor women with their children were abandoned. Sometimes children become destitute because of the death of their parents and close relatives. In many cases, the death of the sole earning member of the family or a major illness of a family member threw the family into a grave economic crisis. The children had no choice but to work for earning their bread in such a situation. Children were also

found to run away from families because of torture, abuse, family disruption, etc. and worked for mere survival.

Bangladesh is prone to natural disasters. Cyclone, flood, river erosion, tidal wave and drought are common phenomena. Thousands of families lose their moveable and immovable properties, including the crop in their field every year because of natural disaster. As a result, they become destitute and the children are pushed to the labour market prematurely (Rahman, W. 1997: 18-19).

According to the same study, the factors that attracted the children to join the labour force were the 'pull' factors. The attractions were economic or psychosocial in nature. As compared to the rural economy of Bangladesh, the urban economy has created more economic opportunities. For instance, during the last decade about 2000 export-oriented garment factories have been established in the major cities of Bangladesh, creating about one million jobs. It is estimated that the children and adolescents took about 20 per cent of these jobs. In addition, the match industry, small engineering workshops, biscuit factories, hosiery, construction sector and other industries as well as the informal sectors employed children.

It was found that, there was also an implicit demand specially for child labour from the employers' side. It had a number of reasons. The children could be paid only a fraction of an adult's salary for the same work and they rarely protest against poor working conditions. In some occupations such as domestic services, children were hired because adults would not accept such a laborious job for a low wage. Besides, children were considered safe and psychologically more comfortable to live with. In some industries like garment, bidi and carpet child workers were preferred for their nimble fingers and good eyesight.

Lastly, as Dr. Rahman observed, sometimes a contribution of 'push' and 'pull' factors like continuous poverty and hunger, abuse by the family members, coupled with the attraction of the city life, desire to earn money to bolster self-esteem or to acquire consumer goods and services, etc. acted on the tender minds of children and made them join the labour force. Children even ran away from home and migrated to cities in search of livelihood. Some child prostitutes were the victims of a number of factors such as, long-term poverty and starvation in the

family, being involved in a fake marriage or given a false hope of employment and then sold to a pimp, loss of chastity, being socially ostracized, desire for a relatively high level of earning as well as a taste for an independent life (1997: 19-20).

Children are employed because they are easier to exploit. Many employers, if challenged for the exploitation, will plead their own relative poverty and hence their need to pay the lowest wages in order to compete with others and survive. Others are more unashamed about their role, seeing the exploitation of children's work as a natural and necessary part of the existing social order (UNICEF, 1997a: 27). Many employers like child workers because they are docile, obedient, powerless and silent as far as their rights as workers are concerned and they can even be dispensed off easily if labour demands fall. Parents are also a major source of demand for the work of their own children. Huge numbers of children work as unpaid workers in family farms, shops and stores that depend on family labour for their economic viability (ILO, 1996: 12).

Various studies have shown that girls have been withdrawn from school so that they could take care of household chores and look after their siblings, thus freeing the mother for paid employment (Thijs, G. 1997: 8). Traditionally it is believed, specially among the poor, that girl children cannot play any significant role for their parent's family – so, they are often treated as less important than boys. Parents offer various justifications for putting their daughters to work to earn money at an earlier age than their sons, either arguing that education is unnecessary for daughters, or suggesting that boys' education is a higher priority and that the extra income is needed to pay for it. Thus the 'traditional expectations' or 'traditional factors' and entrenched social patterns also play a part behind child labour in Bangladesh.

3.4. Child Rights and the UN Convention on the Rights of the Child

3.4.1. Child Rights:

The development of childhood is totally dependent on the issue of 'Child Rights'. The fulfilment of the rights of the children only can ensure the development of children. Children have both more and fewer, rights than adults. But children have traditionally been seen as objects of charity rather than subjects

of rights. Ordinary people, politicians, professionals and, of course, parents, have cared for their well-being, but primarily in the spirit of protecting the vulnerable. The reality is that, it was not even widely recognized that children also have opinions, that they deserve respect as all other human beings and that they ought to have 'rights'.

Children are the most valuable natural resources of the world, but it is only in the 20th century that many developed countries looked towards children as potential citizens (Kaldate, S. 1997: 66). On the way of an international child rights convention, the League of Nations adopted a 'Declaration on the Rights of the Child' in 1924 and the United Nations endorsed the text of a somewhat longer declaration in 1959 – though these were not legally binding (Hammarberg, T.1996: 27).

3.4.2. The UN Convention on the Rights of the Child (CRC):

The most historic and significant legislative and advocacy document was the United Nations 'Convention on the Rights of the Child' (CRC) which was unanimously adopted by the United Nations General Assembly on 20th November in 1989. The CRC contains a comprehensive set of international legal norms for the protection and well-being of children (UNICEF, 1990:13) and it came into force on September 2, 1990. The World Summit for Children, held in New York on 30th September 1990 was the first truly global gathering of heads of state and government from all parts of the world that strongly endorsed the Convention. The CRC has now been ratified by all the nations of the world (Merchant, A. K. 1997:96).

The CRC is the clearest and most comprehensive expression of what the world community wants for its children. It turns the essential needs of all children into civil, political, economic, social and cultural rights that cannot be taken away. So, it is treated as a new ethics for children and a landmark of achievement. The CRC stipulates that all children have equal rights. It compels us to redress the vast disparities between boys and girls, between children from wealthy and poor families, between children of religious or ethnic minorities and those of majority cultures – as a matter of urgent legal and ethical priority (Bellamy, C. 1996: 9). All the rights in the CRC interact in line with the fundamental principle of the best interest of the child as expressed in Article 3, which is the "spirit" of the Convention.

However, the Convention contains four general principles which are of fundamental importance in interpreting and applying its provisions. These are:

- (i) **“Non-discrimination:** All children are entitled to enjoy the rights set out in the Convention without discrimination on the basis of gender, economic status, religion, language, ethnic origin, colour, disability or birth.
- (ii) **The best interest of the child:** Parents, parliament, courts and other relevant authorities must all be guided by the best interests of the child or children concerned in any action relating to children.
- (iii) **Parents’ responsibilities in upholding children’s rights:** Parents have a responsibility to give appropriate guidance to the children about exercising their rights under the Convention.
- (iv) **Respect for the views of the child:** Children who are old enough to form their own views have the right to express them freely in all matters affecting them. The importance given to the child’s views will depend on his or her age and maturity” (GOB & UNICEF-Bangladesh, 1998: 5).

The Convention consists of 54 articles, most of which describe children’s rights to enjoy defined benefits and to be protected against defined ills and the other articles state the general principles which underlie the Convention. However, the Convention “protects children’s right to survive and develop (article 6) to their full potential, and among its provisions are those affirming children’s right to the highest attainable standard of health care (article 24), and to express views (article 12) and receive information (article 13). Children have a right to be registered immediately after birth and to have a name and nationality (article 7), a right to play (article 31) and to protection from all forms of sexual exploitation and sexual abuse (article 34)” (UNICEF, 1997a: 9-11).

Articles 19, 28, 32 and 34 are particularly relevant and significant in the context of street and working children. Article 19 is concerned with the right to protection from violence, abuse and neglect; Article 28 with education, Article 32 provides for the right to protection from economic exploitation; and Article 34 provides for the protection of children from all forms of sexual exploitation and sexual abuse. All of these set forth clear guidelines for states to enact legislation and set programmes on each of the sectoral concerns (Chaturvedi, S. 1994:7).

With all these, the Convention recognizes that not all governments have the resources necessary to ensure all economic, social and cultural rights immediately,

but it commits them to make those rights a priority and to ensure them to the maximum extent.

3.5. Child Rights in Bangladesh

In Bangladesh, traditionally child right is a neglected issue and as the 'Committee on the Rights of the Child' pointed out in 1997, there is a very low level of awareness of the fact that children have rights in Bangladesh (GOB & UNICEF, 1999: 151). However, there are no data available to calibrate the awareness of child rights in the community, family or even among the children themselves. The awareness of child rights among key decision-makers is seen as their obligation to the less fortunate, rather than as the child's fundamental rights.

3.5.1. Constitutional Provisions for Child Rights in Bangladesh:

The basic needs and rights of children and the duties of the state towards them are enshrined in the Constitution of Bangladesh. It provides two specific articles on children's rights. "Article 17 of the Constitution guarantees that the state shall adopt effective measures for the purpose of extending free and compulsory education to all children to such stages as may be determined by law. Article 28 (ii) of the Constitution has embodied a clause which has invested the state with the power to make special provisions for children" (Shamim & Chowdhury, 1993: 42). Besides these, there are six more articles which indirectly provide rights and protection of children in Bangladesh (Shamim & Chowdhury, 1993: 43; & Rahman, G.S. 1994: 13):

Article 11....provides that the Republic shall be a democracy in which fundamental human rights and freedom and....worth of the human person shall be guaranteed.

Article 14 of the Constitution prohibits all sorts of exploitations.

Article 15 of the same ensures the right to social security that is to say to public assistance in cases of undeserved want.

Article 18 provides that the state shall regard the raising of the level of nutrition and the improvement of public health as among its primary duties.

Article 31 provides that every citizen has the inalienable rights to life, liberty, reputation and property.

Article 34 prohibits forced labour.

3.5.2. Legal Provisions for Child Rights in Bangladesh:

Ghazi Shamsur Rahman has identified at least 26 different laws, including those of the British India period and the Pakistan period – from ‘The Penal Code, 1860’ to ‘Bangladesh Shishu Academy Ordinance, 1976’— to describe the legal provisions relating to children’s rights in Bangladesh.² Firdaus Zareen and Khan Saima Afrin, however, have cited in brief, the nine main ‘legislative measures related to children’s rights in Bangladesh’. These are:

“(a) *The Children (Pledging of Labour) Act, 1933*: Sections 3 and 4 prohibit the pledging of labour of children (under 15) and make pledging of such labour and engaging such children punishable.

(b) *Mines and Minerals Act, 1923*: Section 26 prohibits the employment of children (under 15) in mines.

(c) *Employment of Children Act, 1938*: Section 3 (i) prohibits the employment of children in transport works, or in carrying goods and passengers or in works involving handling of goods within a port area.

(d) *Factories Act, 1965*: Sections 25 and 29 prohibit employment of children (under 16) in factories.

(e) *Shops and Establishment Act, 1965*: Section 22 prohibits the employment of children under 12 years.

(f) *Minimum Wages Ordinance, 1961*: This law provides for payment of minimum wages to juvenile (children) workers as fixed by the Minimum Wages Board.

(g) *Suppression of Immoral Trafficking Act, 1933*: This law prohibits the detention of any female child (under 18) in a brothel and provides punishment for causing or encouraging or abetting seduction to prostitution.

(h) *Cruelty to Women (Deterrent Punishment) Ordinance, 1984*: Sections 4 and 5 provide for special punishments for kidnapping or abducting persons (including female children) for immoral purpose and for trafficking in person (including children).

(i) *The Children Act, 1974*: It deals fully with the rights for protection and welfare of children “(Zareen & Afrin, 1998: 35-36).

Of these, the ‘*Children Act 1974*’ is the only act, deals fully with the rights for protection and welfare of children in Bangladesh. *The Bangladesh Shishu Academy Ordinance 1976*’ is another law for the same purpose. This ordinance has empowered

² For details, see Rahman, G.S. (1994). *Laws Relating to Children in Bangladesh*, Second Edition, pp. 13 - 25.

the government to establish an Academy to be called the 'Bangladesh Sishu Academy' and to constitute a Board of Management for running the Academy. Function of the Academy is to make arrangements for production of children's literature, promotion of cultural, scientific and recreational activities for children and for paintings and dramas by children (Rahman, G.S. 1994: 25).

With these Constitutional and legal provisions and its commitments to the children, the Government of Bangladesh (GOB) has made the following initiatives:

- Ratification of the CRC by the GOB,
- Ratification of the CEDAW by the GOB,
- Observing the National Child Rights Week from September 29 to October 5 each year at the national level and in all the districts,
- Observation of the Decade of the Girl Child, 1990-2000,
- Child rights programmes on Bangladesh Radio and Bangladesh Television to the extent of 300 minutes and 25 minutes per day devoted for the promotion of child rights,
- UNICEF, ILO and BGMEA agreeing to a Memorandum of Understanding (MOU) aimed at eliminating child labour in the export garment sector,
- Creation of the National Children Council under the Ministry of Women and Children's Affairs (MOWCA) in 1994,
- The National Children's Policy, 1994 and the National Plan of Action based on the CRC, and
- A legal review of laws relating to childhood to recommend measures of synchronization and reform (GOB & UNICEF, 1999: 154).

All the rights declared in the CRC, however, are not covered by the constitutional and legal provisions in Bangladesh for its children. There are some limitations also with the existing provisions in respect of ensuring child rights fully in the country. Nevertheless, it may be mentioned that, in the light of the CRC, *World Summit for Children (WSC) Declaration* and *SAARC Resolutions*, Bangladesh initiated a number of actions to ensure the fulfilment of child rights and to improve the condition of children in the country.

3.5.3. Legal Rights of Working Children in Bangladesh:

Law is an important instrument to combat or prevent child labour as well as to ensure children's rights. But, in spite of gaining 'Independence' and adopting a

'Constitution' which prohibited child labour and granted free and compulsory education, there is an absence of enough effective laws to protect and control all forms of child labour in Bangladesh.

There are a total of 32 Acts, Ordinances and Laws relating to children in the country. Of them, only seven relate to child labour. These are: *The Children (Pledging of Labour) Act, 1933*; *The Employment of Children Act, 1938*; *The Motor Vehicle Act, 1939*; *The Shops and Establishment Act, 1965*; *The Factories Act, 1965*; *The Minimum Wages Ordinance, 1961*; and *The Tea Plantations Labour Ordinance, 1962*.

None of these seven laws is directly meant for "controlling or administering domestic child labour". Moreover, "most of the above acts, ordinances and laws are contradictory in many areas of provision and interpretation" (BSAF, 1998: 103). The majority of rural working children (e.g. in the agricultural sector) are not covered by any law. Children, who are not wage-employed and are involved in self-employment or work as porter, street-hawker or rag-collector, are also not covered by any specific law. Therefore, "informal sector workers, where the bulk of child workers are employed, are outside the scope of labour inspectors and other law enforcement officials. Implementation of labour laws and the 'Children Act, 1974' is hampered by the inability to determine the age of the child.... A plethora of laws with different age groups also confuses the situation" (GOB & UNICEF, 1999: 135). As a whole, as Blanchet observed, regulations related mainly to industries and the state interfered little with child labour, much of which took place in locations which, in any case, did not fall under the purview of the law (Blanchet, T. 1996: 72).

3.6. Child Development Policy and Plans in Bangladesh

Bangladesh has made her child-related policy and plans according to the international agenda and global guiding principles for the development and welfare of her child population. The UN Convention on the Rights of the Child (CRC) was the first global guiding principle to develop a national policy. After ratification of the Convention and with the commitment to achieve the goals of the World Summit, Bangladesh has developed the following policies, plans and institutional framework:

- (i) National Plan of Action (NPA) for the children (1990-95 & 1997-2002) – 1992 and 1999.
- (ii) Bangladesh Decade Action Plan for the Girl Child 1991-2000, initiated in 1993.
- (iii) National Policy on Children (NPC) – 1994.
- (iv) National Children Council (NCC) – 1994.

3.6.1. National Plan of Action (NPA) for the Children:

Until the early 1990s there was no well-conceived effort in terms of a national policy to combat the problem of working children. In the most recent time, however, there has been two significant developments: first, an awareness of the problem of child labour as a national issue has grown and secondly, having ratified the Convention on the Rights of the Child (CRC) and in pursuance of the World Declaration on the Survival, Protection and Development of Children as adopted by the World Summit for Children (1990), the Bangladesh Government took steps to adopt a National Plan of Action (NPA) addressed to the Children in Especially Difficult Circumstances (CEDC) [Mia, A. 1992: 5].

The Government of Bangladesh prepared in 1992 the first National Plan of Action (NPA) for children. It was meant for the Fourth Five-Year Plan (1990-95), and set 1990 as the benchmark year to measure and achieve the World Declaration goals. The second NPA that is the 'NPA for children 1997-2002' was designed to continue the implementation of the UN CRC, and achieve the goals as set forth in the World Declaration on Survival, Protection, Development and Participation of children as adopted by the World Summit for Children (1990) as well as the Rawalpindi Resolution of SAARC (1996) which updated the Colombo Declaration of SAARC (1992).

It was meant for the Fifth Five-Year Plan (1997-2002) and was prepared in a more organized manner with the coordinating role played by the Ministry of Women and Children Affairs (MOWCA). The draft NPA was widely discussed with different stakeholder groups including children before its finalization. The Parliamentary Standing Committee of the MOWCA approved the NPA in May 1998 and the cabinet approved it in January 1999 (GOB, 2000: 9-10). *The World Summit Declaration* identified seven major and 26 sectoral goals based on the CRC, as

incorporated in the Summit Plan of Action. The Summit goals were to be achieved by the year 2000, but this NPA would go beyond to 2002, in conformity with the National Fifth Plan. This NPA will thus seek to ensure the achievement of Summit targets by 2000.

The Bangladesh Government is trying to reach the 'urban distressed children' – i.e., the children who are living in urban slums including street children and those without shelter through the Urban Basic Services Delivery Project which provides for community and organizational representatives of the city wards as service delivery facilitators. These services include a convergence package of primary health care, non-formal education, sanitation and safe water, etc. Department of Social Services provides some facilities for the urban children, including drop-in centres of street children (GOB, 1998a: 88).

The CRC provisions on Children in Needs of Special Protection (CNSP) were included in this NPA for the first time as separate components. There are five specific steps for the CNSP category and of them at least three are relating to the child labour problem:

- “(i) Ensure food, shelter, education, training and rehabilitation for all orphaned, abandoned, and shelterless children;
- (ii) Protect children from all man-made hazards, oppressive and risky physical labour, and from working in a polluted environment; and,
- (iii) Child labour, child abuse, child oppression, and child trafficking must be effectively stopped, and the people and organizations responsible for these activities be given exemplary punishment” (GOB, 1999: 107).

In terms of intervention programmes, however, the NPA (1997-2002) recognized that the children involved may have little option but to work for survival and hence there should be initiatives to humanize the work-place and reduce work-hazards. With this understanding, the NPA identified at least three programmes to combat child labour problems:

- “(i) An inter-sectoral Plan of Action for phased elimination of child labour has been formulated.... The strategies are to provide education, create awareness and improve school conditions among other things. It is also linked to the overall poverty alleviation, which is considered the main reason for the high incidence of child labour.
- (ii) DNFE is implementing a project named Basic Education for Hard-to-Reach Urban (working) Children (BEHTRUC). Implemented in the six

divisional cities, it will provide basic education to 3,51,000 children in five years, by 2000.

(iii) With the goal of elimination, the concerned ministries, the NGOs and IPEC are trying to reduce hazards and humanize work conditions and raise awareness on the issue” (GOB, 1999: 111).

Bangladesh has been committed to end hazardous child labour by the year 2000 and child labour by the year 2005. In ending hazardous child labour, direct actions are being taken either for removal of the child from such work or humanizing the conditions and protecting the child labour (GOB, 1998d: 522).

3.6.2. Bangladesh Decade Action Plan for the Girl Child (1991-2000):

The Bangladesh Action Plan for the SAARC Decade of the Girl Child, formulated in July 1993, is a reflection of the commitment of the Government of Bangladesh towards improving the conditions of the girl child and raising the status of women. The Action Plan seeks to establish programmatic efforts focused on the girl child, and ensure that they are well-integrated within the development activities of various social development agencies. The efforts of the Government will also be harnessed with those of the non-governmental organizations (NGOs). It will thus ensure broad-based social participation in the process of elimination of social injustice to and economic exploitation of the girl child. It will further promote opportunities for the girl child to fulfil her basic rights. The Action Plan follows the spirit and premises of the UN CRC as well as those of the SAARC Summit Declarations (GOB, nd.: ii).

There are three basic sectors in this Action Plan: a) Education, b) Health and Nutrition, and c) Social and Legal Aspects. To achieve gender equality and proper childhood development, the Bangladesh Action Plan sets specific goals with special reference to the girl child. In the Action Plan document, the goals are described under eight different sectors, such as ‘Infant Mortality Rate’, ‘Under-5 Mortality Rate’, ‘Maternal Mortality Rate’, ‘Nutrition’, ‘Rural Water Supply’, ‘Rural Sanitation’, ‘Basic Education’, and ‘Protection’. However, the ‘Overall Goals’ were “to coordinate and strengthen the social, legal, educational, health and nutritional programmes and measures aimed at the survival, development and protection of the Girl child in Bangladesh” – and the aims were:

- “1. *Survival*: To increase the girl child’s access to health services and improves her nutritional status.
2. *Development*: To achieve basic education for all girl children and secondary education for 80% of all girls by the year 2000.
3. *Protection*: To raise the legal status of the girl child and to foster the development of social norms conducive to her development” (GOB, nd.: back cover).

3.6.3. National Policy on Children (NPC):

In pursuance of the fundamental principles of the Constitution and the UN CRC, the Government of Bangladesh decided to formulate and implement a National Policy on Children (NPC) in December 1994, to ensue the security, welfare and development of children. The policy highlights the importance of providing adequate services to children, including health, nutrition and education. It also stipulates that a “proper family environment” is one of the main preconditions for the proper development of a child. The NPC identifies the need for assistance to children in difficult circumstances, and ensures the protection of the legal rights of children within the national, social and family context. Lastly, the policy clearly states that the Government has adopted the principle of ‘Best Interest of the Children’ – that is, in all national, social, family or personal situations, the best interest of the child will be held paramount (GOB & UNICEF, 1999:20).

The following six are the main goals, identified by the NPC, to guarantee the rights of the children and to ensure various facilities and opportunities:

- a. *Birth and Survival* – to ensure child’s right to birth and survival after birth with the provision of health, nutrition and physical security;
- b. *Education and Psychological Development* – to ensure proper facilities for education and psychological development for achieving appropriate moral, cultural and social values;
- c. *Family Environment* – proper family environment being one of the main preconditions for proper development of a child, steps to be taken to improve the family environment;
- d. *Assistance to Children in Difficult Circumstances* – to extend special assistance to children in difficult circumstances, provide necessary facilities for disabled children and establish equal opportunities for them;
- e. *Legal Rights* -- to ensure the legal rights of the children within the national, social or the family context;
- f. *Best Interest of the Children* – to adopt the policy of ensuring the best interest of the children in all national, social, family or personal situations (GOB, 1994a: 9).

The NPC document identified several 'steps for implementation' of the policy under nine major sectors. These sectors are:

1. 'Birth and Survival' of the children (5 steps);
2. 'Education' of the children (9 steps);
3. 'Psychological and Cultural Development' of the children (7 steps);
4. Ensuring 'Family Environment' for the children (3 steps).
5. Ensuring 'Legal Rights' for the children (4 steps);
6. Helping 'Children in Difficult Circumstances' (5 steps);
7. Helping 'Disabled Children' (2 steps);
8. Helping 'Girl Children' (1 step); and,
9. Ensuring 'Best Interests of the Child' (4 steps) [GOB, 1994a: 11-14].

3.6.4. National Children Council (NCC):

According to the national children policy, it has been decided that, at the national level a National Children Council would be formed with the Minister of Women and Children Affairs as the chairperson. The NCC is the 'highest policy making body' on the welfare of the country's children. The concerned ministers, secretaries and individuals associated with children's welfare and representatives of the organizations involved with children-related issues would be members of the Council:

The functions of the Council are as follows: (GOB, 1994a: 17)

1. The NCC will act as the highest policy making body on children's welfare;
2. It will take all necessary steps to protect the interests and rights of all children in the country;
3. It will ensure the effective application of all laws of the country relating to child rights and interests;
4. It will work for enactment of new laws and formulation of appropriate rules if required;
5. For full implementation of rights of the children, it will decide timely amendments, additions and alterations to existing laws;
6. It will ensure the implementation of United Nations Convention on the Rights of the Child.

As the supreme body in the country, the NCC is responsible for monitoring enforcement of the legislation towards protection of child rights and all sectoral social development activities for the benefit of the children. The Ministry of Women and Children Affairs acts as the secretariat of the NCC.

The issue of child development, however, has been emphasized in the Five-Year Plans gradually. During the First (1973-78), Second (1980-85) and Third (1985-90) Five-Year Plans the child development issue was a neglected one. In that period, it was as a part of women's development and/or social welfare services. The issue of child development was given importance for the first time only during the Fourth Plan (1990-95). In the year of 1994, the Ministry of Women Affairs was re-designated by the government as the Ministry of Women and Children Affairs to emphasize the special focus on children.

The Fifth Five-Year Plan (1997-2002) has undertaken a more coordinated approach towards the overall development of the children.

However, the 'objectives' for the child development sector in the Fifth Plan are to:

- a. reduce infant and under-5 child mortality rates by half of the 1990 level;
- b. expand early childhood development activities;
- c. reduce malnutrition among under-5 children by half of the 1990 level;
- d. provide universal access to basic education and completion of primary education by at least 75 per cent of primary school age children;
- e. provide universal access to safe drinking water and sanitation and means of excreta disposal;
- f. take necessary steps for the children in need of special protective measures such as reducing child labour, eliminating trafficking of children, eliminating violence against children and making arrangements to rehabilitate destitute, shelterless, disabled and displaced children;
- g. provide equal opportunities to all children for development of their personality, talent, mental and physical abilities; and,
- h. make conscious efforts for ensuring children's rights to survive, live, grow up and develop their strengths and potential.