

Short Article

**Laws Relating to Child Labour in Bangladesh
and their Shortcomings****Dr. Rehana Siddiqua***

Child labour laws are basically British laws. In 1700's during the Industrial Revolution in Great Britain child labour became a serious social problem. This problem also extended to those countries which became industrialized. Child labour practices were condemned by social reformers because it was detrimental to the health as well as children's welfare. Certainly Charles Dickens' novel *Oliver Twist* (1837-1839) was the inspiring source of passing laws and regulations for child labour.

Different laws and regulations were passed by the British relating to children as well as child labour. Bangladesh inherited all those laws and regulations as it was a British colony under the Indian Sub-continent.

There are some laws, ordinances and rules to regulate employment of child labours in respect of age, working hours, working conditions, economic exploitation, harmful effects of work on growth and development etc. Laws relating to child labour in Bangladesh are as follows:

The Mines Act, 1923 (Act No. IV of 1923):

According to the Act 'child' means a person who has not completed 15 years and 'young person' means a person who has completed 15 but not 17 years of age. Under the Act no child shall be appointed in a mine or allowed to be present in any part of the mine which is below the ground. According to the same Act, unless a certificate of fitness granted by the medical practitioner is in the custody of the manager of the mine, a young person shall not be employed in any part of the mine. And no such young person is permitted to work in the mine during the period between 7 p.m. and 7 a.m.

The Children (Pledging of labour) Act, 1933 (Act No. XI of 1933):

This Act prohibits the pledging of the labour of children. In this Act child means a person of under 15 years. An agreement, written or oral, express or implied, whereby the parent or guardian of a child in return

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for any payment or benefit received by him, undertake to cause or allows, the services of the child to be utilized in any employment is void. The Act provides for penalty for parent or guardian making agreement to pledge the labour of a child. It also provides for penalty for the persons for making with a parent or guardian an agreement to pledge the labour of a child and also for penalty for employing a child whose labour has been pledged.

The Employment of Children Act, 1938 (Act No. XXXVI of 1938):

The Act provides regulation for the employment of children in certain industrial establishments. The Act provides prohibition of the employment of children below 15 years in the transport of passengers, goods or mails by railway and the handling of goods within the limits of any port. According to the Act, no child who has completed 15 years but not 17 years shall be employed or permitted to work in the aforesaid occupations unless the periods of work of such child for any day are so fixed as to allow an interval of rest for at least twelve consecutive hours which shall include at least such seven consecutive hours between 10 pm and 7 am. The Act also provides that no child below 12 years shall be employed or permitted to work in any workshop where in any of the processes like bidi making, carpet making, cement manufacturing, cloth printing, dyeing, weaving, manufacture of matches, explosives and fire work, soap manufacture, tanning, mica cutting and splitting, shellac manufacture and wood clearing is carried on. The Act contains provision of punishment for employer permitting or employing children to work.

The Road Transport Workers Ordinance, 1961 (Act No. XXVIII of 1961):

According to the Ordinance no person other than a driver, shall be employed in any road transport service before attaining 18 years of age and in case of driving a vehicle before attaining 21 years. The Ordinance further provides that no worker shall be employed on a vehicle for more than five hours at a time before he has had an interval for rest of at least half an hour or for more than eight hours before he has had at least two intervals like (i) for more than nine hours in a day, and (ii) for more than forty-eight hours in a week.

The East Pakistan Domestic Servants' Registration Ordinance, 1961 (E.P. Ordinance No. XLIV of 1961)

This Ordinance was promulgated to provide the registration of domestic servants. The term 'domestic servant' means every person who renders domestic services (i.e. services pertaining to household affairs) to his employer in lieu of wages or any other consideration. According to the Ordinance, if a person takes employment as a domestic servant, he has to report for registration to the officer-in-charge of the police-station or any other police officer. The police officer will not be below the rank of an Assistant Sub-Inspector of police and shall be authorised by the officer-in-charge. Again, if a person seeks employment as a domestic servant he may report to the officer-in-charge or the authorised officer of the area for registration. Name, address or addresses, a copy of his own photograph in duplicate, finger impression and measurements are necessary requirements for the registration. Enquiries will be conducted by the officer-in-charge of the police station or the authorised officer about the correctness of the particulars. After satisfying about the correctness of the particulars, the officer-in-charge of the police station or the authorised officer shall issue a registration card containing a photograph on it. According to the ordinance no person shall work as a domestic servant without registration card. Violation of the provision is a punishable offence.

The Tea Plantation Labour Ordinance, 1962 (Act No. XXXIX of 1962):

According to the ordinance, 'child' means a person who has not completed the age of 15 years and 'adolescent' means a person who has completed 15 but not 17 years. It also provides that a child of 12 years age or an adolescent shall not be permitted to work in any plantation unless a certificate of fitness is granted by a certifying surgeon. Such fitness certificate shall be valid for 12 months and it may be renewed. Any contravention of the provisions by an employer shall be a punishable offence liable for imprisonment or fine or both.

The Shops and Establishments Act, 1965 (E.P. No. VII of 1965):

The Act deals with holidays, payment of wages, leaves, working hours and other related matters concerning the workers employed in shops, commercial and industrial establishments but not being factories. According to the Act, 'child' means a person who has completed the age of 12 years and young person means who is not a child and has not completed the age of eighteen. The Act provides instruction that no young person shall be employed in any establishment except with the

permission of the Chief Inspector, otherwise than between 7 a.m. and 8 p.m. The Act prescribes penalties for its violation.

The Factories Act, 1965 (E.P. Act No. IV of 1965):

The first attempt of child labour legislation was the Factories Act 1881. The Act has been amended in 1891, 1911, 1922, 1923, 1926, 1934, 1935, 1941, 1945, 1946, 1948 respectively and lastly in 1965.

The Act regulates the employment and working conditions of workers as well as children and adolescents. Here the term 'child' means a person who has not completed 16 years and 'adolescent' means a person who has completed 16 but below the age of 18 years. According to the Act, no child below 14 years shall be required or allowed to work in any factory. The Act also provides that a child who has attained 14 years of age or an adolescent shall not be required or permitted to work in any factory unless a certificate of fitness granted by a certifying surgeon is in the custody of the manager of the factory and unless such a child or adolescent carries a token while he is at work, giving reverence to such certificate. The certifying surgeon may renew the fitness certificate and such certificate remains valid for 12 months. The certifying surgeon may also revoke any certificate granted or renewed if he thinks the holder of the certificate is no longer fit to work.

Regarding working hours for child and adolescent the Act provides that no child or adolescent shall be required or permitted to work in any factory for more than five hours in a day and between the hours of 7 p.m. and 7 a.m. The Act also provides that the period of work of all children employed in a factory is limited to two shifts and do not overlap or spread over more than seven and a half (7.5) hours each. The Act retains provision for maintaining a register by manager of every factory of child workers for inspection during working hours. The Act prohibits the employment of young person on dangerous machines unless he has received sufficient training to work there. The Act also prohibits the employment of women and children near cotton openers. The Act provides facilities of rooms for children under the age of six years in every factory where more than fifty women workers are employed. The Act also prescribes penalties for violating its provisions.

It appears from these provisions of laws that a child is allowed to be employed under certain conditions but there is no uniformity of ages in

these laws. No attempt has been made to prohibit or stop or abolish the child labour by these Acts.

In Bangladesh, complexities or ambiguities of existing laws relating to child labour are the main obstacles in enforcing them. There is no uniform minimum age to enter into labour force. And the meaning of child, adolescent and young person is anomalous in the relevant laws and regulations.

According to the Mines Act 1923, the children (Pledging of labour) Act, 1933 and the Employment of Children Act 1938 'child' means a person who has not completed the age of fifteen (15). Again, the Factories Act, 1965 defines 'child' as a person who has not completed the age of sixteen (16) and the Shops and Establishments Act, 1965 defines 'child' as a person who has not completed 12 years of age. According to the Tea Plantation Labour Ordinance, 1962 'child' means a person who has not completed 15 years. At the same ordinance, it is also said that 'no child under twelve years of age is allowed to work'.

Same anomaly goes to the meaning of young person and adolescent. Young person under the Mines Act, 1923 and 'adolescent' under the Tea Plantation Labour Ordinance, 1962 means a person who has not completed 17 years. Again, 'Young person' under the Shops and Establishments Act, 1965 and 'adolescent' under the Factories Act, 1965 means he who has not completed the age of eighteen(18). So it is clear that the meaning of child, adolescent and young person varies from one act to another or even in the same act in the same country.

There are some ambiguities or anomalies of working hour of children. Sec. 70 of the Factories Act, 1965 deals with the working hours for children. According to the Sec. 70(1) no child or adolescent shall be required or allowed to work in any factory-(a) for more than five hours in any day; and (b) between the hours of 7 p.m. and 7 a.m. By Sec. 70(2) of the same Act, the period of work of all children employed in factory is limited to two shifts which do not overlap or spread over more than seven and a half (7.5) hours each.

Some limitations are also found in the existing legislation. Most of the legislation covers only the formal sector. But a vast majority of working children are found in the informal sector like agriculture, domestic service, small business like street trading, home-based work and self employment in many other unorganized or informal sector. In

Bangladesh, as children mainly work in informal undertaking both in rural and urban areas, so any legislation to ban child labour will be almost impossible to enforce. Birth registration is an important aspect to protect the interest of child workers. Because registration is essential that allows child rights like education, health care and provides employers and labour inspectors with evidence of the age of every child.

The existing legislation provides insufficient penal provisions. The Children (pledging of labour) Act, 1933 provides penalty for parent or guardian with fine which may extend to fifty (50/-) taka, penalty for making with a parent or guardian an agreement to pledge the labour of a child with fine which may extend to two hundred (200/-) taka and penalty for employing a child whose labour has been pledged with fine which may extend to two hundred (200/-) taka. According to the Employment of Children Act, 1938, the employer shall be punished with fine which may extend to five hundred (500/-) Taka. Violation of the provisions of the East Pakistan Domestic Servants' Registration Ordinance, 1961 shall be punished with simple imprisonment which may extend to one month or with fine which extend to one hundred (100/-) rupees or with both. The Children Act, 1974 provides provision for penalty for exploitation of child employees with fine which may extend to taka one thousand (1000/-). By the above discussion it is clear that the penal provisions are so insufficient or minimal in comparison the present day situation.

Most of the existing laws of Bangladesh were codified in the late 19th and early 20th centuries under the British Imperialism. Since the existing legislations relating to child labour are century-old, these should be amended and new laws consistent with the present socio-economic condition should be introduced. Laws should be framed strictly and executed accordingly, because, they would remain paper-tigers without proper execution.