

**DISSERTATION ON**  
**Health and safety rights in work place for women and children: an analysis on  
labour law of Bangladesh**

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## Consent form



## Consent form

The dissertation titled: Health and safety rights in work place for women and children: an analysis on labour law of Bangladesh prepared by Sadia Ohi Orna ID 2017-1-66-041 submitted to Farzana Rifat Siddique for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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# DECLARATION

I truly declare that, with the exception of primary and secondary data from the internet, all of the research for this work was done by me. It has never before been submitted to this or any other university for consideration for another degree, partial degree, or exam.

# LIST OF ABBREVIATIONS

<b>BLA</b>	Bangladesh Labour Association
<b>SMI</b>	Survey of manufacturing industries
<b>HCD</b>	High Court Division
<b>ILO</b>	International Labour Organization
<b>OSH</b>	Occupational Safety and health
<b>BGMEA.</b>	Bangladesh Garment manufacturers and exporters association
<b>BKMEA</b>	Bangladesh Knitwear Manufacturers and Exporters Association

## **ABSTRACT**

This thesis aims to review the effectiveness of Bangladesh Labor Act,2006 in terms of ensuring the occupational health and safety rights for women and children. Women employees are particularly susceptible to a variety of risks, frequent catastrophes, and negative occupational health consequences. On the other hand, a lot of children are sadly losing their childhood because they are continually hurt in the struggle to survive and provide for their families. To address this issues, Bangladesh has implemented a number of steps, including a legal framework. The Bangladesh Labour Act of 2006 has a number of clauses designed to address and resolve this issues. This thesis main concern will be to analyze the effectiveness of the Labour Act of Bangladesh for women and children with the example of case studies and case laws. This thesis will also focus on the reasons behind non-application of health and safety related laws for children, adolescents and women workers including the Reasons of not eliminating child labour in Bangladesh Besides this, in this thesis the loopholes of the Bangladesh Labor Act,2006 will be find out . Furthermore, finally findings of this thesis and recommendations to overcome the challenges regarding the concern issues will be discussed.

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# **Chapter 1: Research proposal**

## **1.1 Statement of the problem:**

Bangladesh's standards on workplace health and safety are not at a satisfactory level yet. The Labour Act of Bangladesh is an ineffective safety protection policy in the event of real-life application. Besides this, the Labour Act, 2006 is still insufficient and has not ratified some core policies taken by the International Labour Organization (ILO) for enforcing health and safety in the workplace. Actually, the problem is that the popular implementation of existing laws cannot be ensured yet. And for that reason, workers are suffering a lot and they are not even aware of the rights that they are entitled to enjoy as a worker according to the Labour Act.

According to the world bank collection of development indicators; total female labor in Bangladesh was report at 30.4% in 2021. Female workers participation is increasing day by day in the various industries of Bangladesh. Specially, in “Ready mate garment sector (RMG). All most 80 percent of garment workers are women. In large factories and industries, the percentages of female workers are greater than male workers. And this is something very positive for women empowerment in a developing country. But the percentages of female worker are lower in small manufacturing industries and factories according to SMI survey (survey of manufacturing industries 2019) But Bangladesh cannot ensure proper working environment for women yet. Women workers have to face different kind of difficulties like getting less payment than male co-workers, verbal and physical abuse, sexual harassment beside this, non-application and lacking’s of health and safety related laws is the main reason of women sufferings in their work place.

Section 34 of the Labour Act, 2006 prohibits the employment of children under the age of 14 years in any industry. But in reality, numerous children are involved in many risky and dangerous occupations, including hazardous work, such as public transport (bus, truck, tempo, other vehicles), manufacturing sector, industrial sector (tannery, leather, brick), garments factory, and others sector. Bangladesh Labour Act 2006, identified 38 things as hazardous works for children and adolescents and also prohibited in certain areas or works.

## **1.2 Research question:**

How effective is the Labour law of Bangladesh to ensure the occupational health and safety rights for women and children?

## **1.3 Objective of the thesis:**

- a. To analyze the effectiveness of the Labour Act of Bangladesh for women and children.
- b. To determine why the law is not properly implemented.
- c. To provide some recommendations and findings.

## **1.4 Methodology:**

This thesis will be conducted with assistance from the information of the secondary sources. Such as legislation, books, journal articles, newspapers etc. These secondary sources will be the main source of the thesis paper. The footnotes and bibliography have been referred to in the OSCOLA referencing system.

## **1.5 Chapter outline:**

This paper will have total 5 chapters. In the first chapter the introduction, methodology will be given. In the second chapter, I will discuss about the health and safety rights for women and child under Labour Act 2006. Besides that, I will analyze the position of Bangladesh's work place health and safety and the real-life application of the Labour law in workplace for women and child. In the third chapter, I will try to determine the causes behind non application of health and safety rights for women and child in workplace. In the fourth chapter, I will discuss about how the implementation of these law can be done, lacking of Bangladesh Labour Act, 2006. In the final chapter conclusion for the whole thesis will be drawn.

## **Chapter 2: Legal implementation of occupational health and safety rights for women and children worker in Bangladesh:**

### **2.1 Introduction:**

As a developing country Bangladesh is still working on the betterment of the Occupational safety and health (OSH) program. But the welfare policy is not sufficient yet in case of legal implementation. Bangladesh stands among the top 10 worst countries with regards to protection of worker rights. According to the Global rights Index 2017. In this chapter I will present the current status of Bangladesh workplace health and safety rights. Beside this, in this chapter I will analyses the practical implantation of occupational health and safety rights for women and child labour in Bangladesh.

**2.2 Laws regarding occupational health and safety rights in Bangladesh:** The Bangladesh Labour Act, 2006 provides several rules for protecting women and child Labour's health and safety in the workplace. Such as section 45 to 50 deals with the maternity welfare facilities,<sup>1</sup> like payment of maternity benefit (section 46).<sup>2</sup> 51 to 60 Health and hygienic,<sup>3</sup> section 61 to 78A safety,<sup>4</sup> section 79 to 88 special provision with regard to health,<sup>5</sup> hygiene and safety and welfare measures section 89 to 99.<sup>6</sup> Section 34 to 44 of BLA discuss about the Employment of Adolescent. Such as Section 34 of the Act restricted employment of any child below the age of 14 in any establishment. Section 34 also talks about the rules regarding adolescent worker.<sup>7</sup> Section 37 discusses about the certificate of fitness in case of adolescent worker.<sup>8</sup> Section 39 declare the list of hazardous works and prohibition of employment of adolescent in certain work.<sup>9</sup> Beside the main law BLA 2006; Bangladesh has also enacted various legislation and regulation as example

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<sup>1</sup> Sections 45-50 of Bangladesh Labor Act ,2006

<sup>2</sup> Sections 46 of Bangladesh Labor Act,2006

<sup>3</sup> Sections 51-60 of Bangladesh Labor Act,2006

<sup>4</sup> Sections 61-78A of Bangladesh Labor Act,2006

<sup>5</sup> Sections 89-88 of Bangladesh Labor Act,2006

<sup>6</sup> Sections 89-99 of Bangladesh Labor Act,2006

<sup>7</sup> Section 34 of Bangladesh Labor Act,2006

<sup>8</sup> Section 37 of Bangladesh Labor Act,2006

<sup>9</sup> Section 39 of Bangladesh Labor Act,2006

fire safety Act 2003, Bangladesh labour regulations (BLR) 2015, national building code of 2006 and workmen compensation Act of 1923.

After the Rana Plaza incident Labour Act of Bangladesh has amended in 2013. I will discuss about the Rana Plaza incident in below. The main purpose of this amendment is to improve occupational health and safety. Beside this OSH program also started in Bangladesh at that same year. The latest amendment of Labour law was made during January 2019 and the main purpose of this amendment is to ensure the post-partum paid maternity leave for the women.<sup>10</sup>

So, we can see there are several legislation and regulation in Bangladesh for purpose of protecting occupational health and safety rights.

### **2.3: Effectiveness of the legal application of the Labour law in workplace for health and safety rights of women and children.**

Bangladesh Labour Act, 2006 (Note: hereinafter in this thesis Bangladesh Labour Act, 2006 referred as BLA) is an ineffective safety protection policy in case of real-life application. Bangladesh standard on work place health and safety for women and children is not at a satisfactory level. Now, I will discuss some case examples below:

#### **Rana plaza building collapse:**

Rana plaza collapse and in a result of this accident 1,134 garment workers was died including female workers also. According to scholar opinion, the incident of Rana Plaza was a big failure of the nation's legal and administrative system. Rana plaza incident was occurred in 4 April 2013. The Rana Plaza building had been allowed by the building authorities for use as an office building. But the owner Sohel Rana illegally added four extra floors by using poor quality materials for the buildings and some of these extra floors were used as garment factory. Like every garment factory, these floors of Rana Plaza are also required the installation of heavy industrial machinery. As a result of this corruption rana plaza collapse. One day before the accident garments works had been evacuated due to the observation of cracks in the building. After that some local engineers certified the building safe for production work. At 24 April 2013 despite of garment workers refusal to enter

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<sup>10</sup> MD. Abdul Halim and Masum saifur Rahman, The Bangladesh Labor Code, 2006 (11th edn, CCB Foundation 2019)

the risky building, Sohel Rana forced worker to enter the building for the work purpose and workers have to agree with his order as their jobs and salaries were threatened.<sup>11</sup>

Like other garment industries, there are so many female workers who were working in Rana Plaza during the time of the accident. Now, I will share some female worker's experiences who survived the accident.

- Sefali Begum (Age: 23, Worked at Phantom Tac, Fourth Floor, Designation: Cutting operator):

"I was working on the 4th floor on the eve of Rana Plaza collapse. At the time of working, suddenly I noticed that many of the workers were crying and running aimlessly. Then I could notice that the building was collapsing over me. I ran and stayed beside a pillar. The whole building collapsed within two minutes. My leg was trapped in between two walls. I lost one of my legs. I also got hurt in my head by the fallen roof. My head, hands, back were badly injured. I was rescued after 5-7 hours of the collapse and sent to the Enam medical college hospital. After 27 days of treatment, I was released. I can feel pain in my body till now. I cannot ASM, Anam Ullah, "Tazreen Fashions, Rana Plaza, FR Tower and then Hashem Food, what next? The ineffective OHS regulatory processes of the Bangladesh Government" (2022) 17 1 move without the help of others. To be free from these kinds of sufferings, I tried to commit suicide twice".<sup>12</sup>

- Rokshana Begum (Age: 28, Designation: Sewing Operator, Company: Ether Textile, Fifth Floor)

"I have heard that men workers who survived the Rana Plaza collapse are now occupied in some other jobs. But who will employ me? The employer might think that I will not be able to invest

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<sup>11</sup> ASM, Anam Ullah, "Tazreen Fashions, Rana Plaza, FR Tower and then Hashem Food, what next? The ineffective OHS regulatory processes of the Bangladesh Government" (2022) 17 1

<sup>12</sup> Humayun Kabir, Myfanwy Maple, and Syadani Riyad Fatema, "Vulnerabilities of Women Workers in the Ready-made Garment Sector of Bangladesh: A Case Study of Rana Plaza" (2018) 19 JIWS 224.

my full physical labour due to losing my right hand during that collapse. Therefore, I now work as a floating sex worker to survive along with my parents. I am not worried to be infected by diseases. I cannot force the clients for using the condom because they do not want to use the contraceptive”.<sup>13</sup>

### **Present status of Rana Plaza case:**

Nine years have passed after the Rana Plaza collapse incident but court has only finished hearing plaintiff’s statement. Court sentenced Sohel Rana, three years imprisonment in 2017 in a case filed by the Anti-Corruption Commission for corruption.<sup>14</sup>

### **Fire at Hasem Food and Beverage Limited:<sup>15</sup>**

On 8 July 2021 fire accident was happened at Hashem food and Beverage Ltd. 52 workers of the factory died in this accident. Including lots of child and adolescent workers. As the most of the worker in the factory was child and adolescent labour. who works at producing snacks such as lollipops and chocolate spreads? During the time of the fire incident the factory gates were locked. Moreover, no emergency exit was available at that factory. And for that reason, workers could not escape the factory. As a result, the workers have to loss their life and some of them got seriously injured.<sup>16</sup>

### **British American Tobacco Bangladesh Comany Ltd vs Begum Shamsun Nahar.<sup>17</sup>**

#### **Case fact:**

The plaintiff of the case was co- ordination officer of the Tobacco company. She noticed some unwanted attention from the two employees at her workplace from the beginning of her job life.

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<sup>13</sup> ibid

<sup>14</sup> bdnews24, ‘Nine years into Rana Plaza collapse, court has only finished hearing plaintiff’s statement’ Breaking news (24 April, 2022)

<sup>15</sup> ASM, Anam ullah,“Tazreen Fashions, Rana Plaza, FR Tower and then Hashem Food, what next? The ineffective OHS regulatory processes of the Bangladesh Government” (2022) 17 1

<sup>16</sup> Ibid

<sup>17</sup> 66 DLR (AD) 80

After that when the plaintiff became one of the harasser's assistants then she faces more sexual harassment. To get rid of this circumstance she made verbal complaint to her authority. One day plaintiff notice one of those harassers in an inappropriate position with a young married lady of their work place. One day after that incident plaintiff got a termination letter of service from the authority.

### **Judgement:**

Being aggrieved by the learned joint district judge the defendant party moved to the high court division.

Finally, the appellate division after analyzing the order and judgement of the HCD and also after hearing both parties' arguments the AD held that, the defendant was liable for tort and also compensation may be claimed against him.<sup>18</sup>

### **ASK, BLAST others vs Bangladesh and others<sup>19</sup>**

Popularly known as Tazreen Garment case.

112 people died in Nisuchintapur Ashulia Dhaka on November 24,2012 due to fire accident on Tazreen Garment. According to Ain-o-shalish Kendra (ASK) legal aid NGO's investigation report, low quality electrical infrastructure was the main cause of the fire accident. By a short - circuit on the ground floor the fire incident was started. There no emergency exit in that building, narrow stairs, no emergency lighting system and also the collapsible gate on the ground floor was closed. Besides this, insufficient firefighting equipment which workers were unable to use during the time of the accident.

Most of the workers (male, female and child workers died succumbed to smoke inhalation, some of them died due to burnt. And some of them also died when they were tried to escape the fire from jumping by the windows on the top floor of that building. After that incident, a writ petition was filed by ASK, BLAST and Nijerakori and challenged the responds' inability to ensure

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<sup>18</sup> Ibid

<sup>19</sup> BLAST, Writ Petition No. 15693 of 2012. High Court Division of the Supreme Court of Bangladesh. accessed on 27th April 2022

effective implantation of applicable work place safety and for prevention of the workers deaths and injuries.

In response to the writ petition the honorable High court issued a" Rule Nisi". Besides this, Tazreen Fashions Ltd has been order to report the action put in place to prevent this kind of accident in future and steps must be taken to compensate workers who have been died or got injured because of this fire accident in their work place.

High court directive in writ a petition no 6070/1007 issued on 2001 to creating an investigation committee to report that the factory must maintain the legal procedures taken by the garment authorities. And to implement the health and safety rights of the workers in the workplace.

## **2.4 Conclusion:**

Finally, after analyzing the cases it is found that, health and safety related laws are not practically maintained in factories and garments and the other industries as well where the workers work. And for not maintaining the health and safety related laws at establishments this type of terrible accidents happened several times in Bangladesh.



## **Chapter 3: Reasons behind non-application of health and safety related laws for children, Adolescents and women workers.**

### **3.1 Introduction:**

In the previous chapter, I discussed some case example and case laws of violation of health and safety rights for child and women. These violations of law occur for some reasons and to overcome this challenges we need to figure out the causes behind non-application of health and safety rights for women and children. In this chapter, the causes behind non-application of health and safety rights for children and women will be discussed.

### **3.2 Reasons of not eliminating child labour in Bangladesh:**

- 1. Social and economic condition of the country:** Economic hardship and the social situation of the country might be significant reasons for child labor. Children work to sustain themselves and the people who depend on them, their families. For instance, one lower-class family of five consisted of a mother, a father, two daughters, and a son who is the older child but is only 13 years old. The father is the only member of the family who makes a living, and even his income is insufficient to support the entire family. The son must perform child labor in order to support his family. Many impoverished families, like this one, have no choice but to let their kids work. The primary factors that lead to some situations sanctioning child labor are financial difficulties and dysfunctional families.<sup>20</sup>
- 2. Lack of Education:** Another big reason behind child labor is lack of education. People who live below poverty line are not getting the opportunity to educate their self and their children for financial constraint. This parents rather prefer their children to work as a child labour for survival their day-to-day life and to increase their family income. Because if the children goes to school instead of work, who will provide them the food to survive. Besides that, this class of people doesn't understand the importunacy of education. They need money more than knowledge.

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<sup>20</sup> Prof A.A Khan, Bangladesh Labour and industrial Law (students edn, UL 200)

**3. Low cost labour:** child labor can be hired in minimum wages other than male and female worker. Some orphan street child also be hired without wages as apprentice with the facility of meal only as they have no alternative option to survive and child labor is available in our country. So that, employers are interested to hire child labor instead of adult workers.

**4. Lack of awareness:** Absence of awareness of the parents and the employers are one of the reason why child labour can't be erased in Bangladesh. Parents and employers are not concerned about the risky job child labour has to do and how harmful the consequences of child labour. These children destroyed their future by engaging themselves with work instead of education and it is also possible that, they may get injured due to working at hazardous environment using heavy machinery. Even, they also have life thread because of accidents mainly fire accident at their work place. Which very common in Bangladesh.

**5. Misused of section 44 of Labor Act 2006:** The legal age for employment of an adolescent worker should be above 14 years old. A person under the age of 14 is considered a child, and children are not allowed to work in any occupation or establishment according to section 34 of BLA.<sup>21</sup> But, the Bangladesh Labour Act 2006, section 44, makes an exception for child labor.<sup>22</sup> According to Section 44, any child who reaches the age of 12 may work in light labor that is not harmful to their health or physical development or that will not interfere with their schooling. Besides this, there is no clear definition of what constitutes "light work" or what types of job fall under this category. This provision is inconsistent with section 34 of BLA.<sup>23</sup> International labor organization (ILO) also allows it for the option of initially setting the legal minimum age at 14 (12 for light employment) in areas with underdeveloped economies and educational systems.

However, it is explicitly mentioned in this section that an employer may only employ a child for light tasks under the condition that doing so won't jeopardize his health and development or interfere with his education. But there is no clear definition of what constitutes "light work" or what kinds of job fall under this category. Perhaps this inaccuracy puts them at a disadvantage because the type of light job has not been identified. As a result, a group of people are given an

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<sup>21</sup> Section 34 of Bangladesh Labor Act,2006

<sup>22</sup> Section 44 of Bangladesh Labor Act,2006

<sup>23</sup> Section 284 of Bangladesh Labor Act,2006

opportunity through this section, which is being misused, and when it comes to simple tasks, kids are hired for risky jobs.

**6. Minimum punishment for employing child labour:** Any person who hires a child or adolescent or allows a child or adolescent to work in violation of any labor law provision would be subject to a fine that might exceed TK 5,000. (Section 284, BLA).

### **3.3 Reasons behind non-application of health and safety rights for adolescent workers:**

Chapter III of the BLA expressly addresses the employment of adolescent workers, even if our labor law does permit the employment of youngsters over the age of 14. According to Section 34(1) of the BLA,<sup>24</sup> no child shall be engaged or permitted to work in any occupation or establishment, while Section 34(2)<sup>25</sup> of the BLA establishes limited restrictions on the employment of adolescent (i.e., those aged over 14), subject to the fulfillment of two requirements. The employer must first obtain a certificate of fitness from a licensed physician as the first criterion. The teenager must also have a token with a reference to the certificate with them at all times while they are working.<sup>26</sup>

It is still unclear which of these two requirements Hashem Foods Ltd. met. However, Md. Salauddin, the administrative spokesperson for Sajeeb Company, stated to The Daily Star when questioned about the issue of exploiting child labor: "The age of the employees is not a relevant issue."<sup>27</sup> They were hired after looking over the pertinent records. If the age is less, the employees are to blame for tampering with the records."<sup>28</sup> According to the labor law, one of three documents must be utilized to settle any disagreements regarding an employee's age and whether or not they are a child or adolescent worker: a school diploma, or a birth registration certificate (ii) a diploma

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<sup>24</sup> Section of 34(1) Bangladesh Labor Act, 2006

<sup>25</sup> Section of 34(2) Bangladesh Labor Act, 2006

<sup>26</sup> MD. Abdul Halim, TextBook On Bangladesh Labour Code (Tenth edn, CCB Foundation 2018)

<sup>27</sup> <https://www.thedailystar.net/> accessed on 22 April 2022 Taqbir Huda, 'Why is child labour still legal in Bangladesh?' The Daily Star (29 July, 2021) 2

<sup>28</sup> Ibid

from school; or (iii) a document from a licensed physician attesting to the patient's age (Section 36, BLA).<sup>29</sup> However, the disagreements about the true ages of the young workers who went missing following the fire at Hashem Foods illustrate the danger of relying solely on documentary evidence (which is easily "tampered with") to settle age-related disagreements. The majority of "lost" child worker families maintain that their cherished daughter or son was too young to work, but the factory authorities maintain the exact opposite and claim to have the necessary documentation.

Chapter III sets two important prohibitions on the employment of teenagers in addition to the requirement to obtain and exhibit fitness certificates. First off, it forbids young people from working in jobs that the government deems to be too dangerous (Section 39(2), BLA).<sup>30</sup> Working at a biscuit factory was one of 38 processes and activities that a government directive deemed dangerous for kids in 2013. When the Bangladesh Labour Rules were created in 2015, Rule 68 also included a list of 32 tasks that were thought to be too dangerous for teenagers, which included using cutter machines. According to the 2013 National Child Labour Survey, 1.28 million youngsters were working in dangerous conditions. Second, no establishment's machinery may be forced to be cleaned, oiled, or adjusted while adolescents are present.<sup>31</sup> To perform work on such apparatus while it is in motion, between moving parts, or between fixed and moving parts (Section 39(3), BLA).<sup>31</sup>

Any person who hires a child or adolescent or allow a child or adolescent to work in violation of any labor law provision would be subject to a fine that might reach Tk 5,000. (Section 284, BLA). Despite the varied degrees of harms that may arise from the offender's violation of the country's child labor regulations, this penalty is fairly light-handed compared to the seriousness of the offense; no prison sentence is specified, and the amount of the fine is capped at a very low level. But our labor law appears to have a distinctive characteristic that restricts the responsibility of people who break labor laws.<sup>32</sup>

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<sup>29</sup> Sections 36 of Bangladesh Labor Act ,2006

<sup>30</sup> Section 39(2) of Bangladesh Labour Act

<sup>31</sup> Section 39 (3) of Bangladesh Labour Act

<sup>32</sup> Ibid

### **3.4 causes behind non-application of health and safety rights for women workers:**

**1.Lack of knowledge about rights:** Most working women don't know their health and safety rights in the workplace. This is the primary reason for the non-application of health and safety rights in the workplace. Women workers are not aware of their legal rights in the workplace.

**2. Harassers hold too much power in establishments:** It is common that, in establishments, harassers hold too much power. As an example, if a female worker is sexually harassed by her boss, she must be afraid to start a legal procedure against him or even put a complaint to the authorities. because she has to work under him. And if she files a case, she has to face many struggles in the workplace, and there is even a possibility of losing her job. And when a legal procedure is not initiated against sexual harassment in the workplace, there is no chance of legal implantation of health and safety rights in the workplace towards women. Because the law cannot knock at the victim's door to ensure justice.

**3. Lack of legal aid:** For lack of legal aid woman workers cannot get information about their legal rights and remedies and this is one of the reason non- applications of health and safety rights in workplace for women.

**4. Minimum punishment and problem in enforcement:** The definition of violence and harassment in the workplace is not added in the Bangladesh Labor Act, 2006. No employee of any institution should act in a way that would appear impolite, indecent, or offensive to the woman's modesty or honor, according to Section 332 of the Bangladesh Labour Act, 2006. However, the clause is obviously insensitive to gender and makes no mention of the violence or harassment that women experience at work. The maximum penalty under it is just a fine of Tk25,000. The 2009 High Court Guidelines defined sexual harassment and made reference to the penalties for offenders, but little was provided to the victim other from counseling. In addition, the framework for enforcement for gender-based violence and labor legislation is quite poor. Therefore, along with revising the legislation, adequate application and oversight of the law should be ensured.<sup>33</sup>

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<sup>33</sup> Dhar, Labour and Industrial Laws of Bangladesh (ReMiSi 2007) 7

**5. Over time work at late hours:** It is prohibited in BLA to bind any woman working nighttime shifts between 10 p.m. and 6 a.m. in the workplace without their consent. But in reality, at factories, women workers are working overtime at late hours. Sometimes with her permission to earn extra money, and other times by employer order due to deadlines, Because of working late hours at night, women workers have to face problems related to safety issues in the workplace and also on public transport.

**6. Domestic helpers are not protected under BLA:** It has been a common practice in urban areas of Bangladesh to employ domestic helper of varying ages and most of them are female worker. Typically, domestic employees perform tasks around the home like cooking, cleaning, and washing dishes. However, they do not have a set schedule for working. They don't even get the opportunity to take break as they work nonstop. ILO listed ironing clothes, cutting vegetables with sharp appliances, boiling water, lifting heavy goods, etc. as of hazardous work for children which are harmful. But, according to BLA, domestic helpers are not official labour and they are not protected under BLA. That is why the implantation of labour law in their cases is not possible.

### **3.5 Conclusion:**

In this chapter, I try to find out the reasons behind the non application of the health and safety rights for women and children. And if we focus solving these causes behind non-application of health and safety rights for women and children then we also become able to overcome the challenges for which the legal application of laws can not be done. And the application of health and safety rights for women and children can be done accurately.

## **Chapter 4: Criticism of Bangladesh Labor Act, 2006 In terms of women and children workers regarding health and safety rights:**

### **4.1 Introduction:**

In the previous chapter, I discussed about reasons behind non-application of health and safety related laws for children and women. In this chapter, I will be analysis the gaps and errors and of Bangladesh Labor Act,2006. Although, the Act was amended several times, even then, there are remains some loopholes. It is very important to point out these loopholes of the Act for create the improved version of the Act. Which will be more effective in a practical way for the betterment of the women and children labors.

### **4.2 Lackings of Bangladesh Labor Act,2006 in terms of women and children regarding health and safety rights:**

1. There are numerous norms and regulations in our country regarding occupational health and safety for children and female workers. However, the implementation of the Labour Act 2006 is vastly hampered. Actually, the safety of the workplace depends on the execution of laws and continuous monitoring of these.
2. There is no exact definition of 'light work' or which sorts of work can be identified as 'light work "under section 44 of the Labour Act 2006.
3. The Bangladesh Labour Act, 2006 classified 38 tasks as dangerous for children and adolescents to perform and outlawed them in specific areas or work. The transportation industry, which includes working in auto shops and as an assistant for trucks, tempos (four-wheeled vehicles), and buses, is one of the 38 occupations classified as dangerous for children. However, teen drivers can be observed even on the busiest capital city roadways, the execution of this provision is not possible for lack of accountability and monitorization.
4. Section 112 of the Labour Act of 2006 has a provision relating to a particular age limit for employees of road transportation service providers.<sup>34</sup> It states that no one under the age of

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<sup>34</sup> Section 112 of Bangladesh Labour Act, 2006

21 may be hired as a driver in a road transportation company, and anyone under the age of 18 is not permitted to hold any other positions inside the company. However, in practice, neither these rules are observed nor have they been put into practice.

5. The principal safety and security ILO agreements, which demand a basic level of protection for all workers, have not been ratified by Bangladesh. Furthermore, accountable organizations like the Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA) and Bangladesh Garment Manufacturers and Exporters Association (BGMEA) have found that the institutional policies are in need of improvement. Because of this, a variety of accidents, including fires, building collapses, damage to the infrastructure, worker physical injuries, and elevated health risks, frequently occur.
6. The legal system is so slow and cumbersome, there are numerous pending cases involving garment industry safety issues. To resolve these issues and secure workers' justice, the judiciary must act effectively. Many difficulties such as fire, building collapse, and various types of harassment including sexual harassment to the female workers and random suspension could be resolved by resolving those instances.
7. According to BLA, domestic helpers are not official labour and they are not protected under BLA. But, International labor organization (ILO) listed ironing clothes, cutting vegetables with sharp appliances, boiling water, lifting heavy goods, etc. as of hazardous work for children.<sup>35</sup>

### **Bangladesh National Women Lawyers Association (BNWLA) v Government of Bangladesh.**<sup>36</sup>

Even in this case of (2011), the court recognized domestic worker rights for the first time and held that Bangladeshi child domestic workers between the ages of 14 and 18 should be within the provisions of the Labour Act 2006.

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<sup>35</sup> <https://www.ilo.org/global/lang> . Low growth and global crisis slow job recovery in Latin America and the Caribbean. Assessed on 22 April 2022

<sup>36</sup> 2011 BLD 265



8. The Bangladesh Labor Act of 2006 does not provide a definition of violence and harassment at work. Section 332 of the Bangladesh Labour Act of 2006 states that no employee of any institution shall behave in a manner that would be disrespectful, indecent, or derogatory to the woman's modesty or honor<sup>37</sup>. The section makes no mention of the violence or harassment that women encounter at work, which is blatantly insensitive to gender.
9. The maximum punishment under BLA for sexual harassment merely a Tk25,000 fine. Although sexual harassment was specified in the 2009 High Court Guidelines and the associated sanctions were mentioned, the victim received no assistance beyond therapy. Additionally, the foundation for enforcing labor laws and laws against gender-based violence is very weak.
10. Although an injured or killed worker's heirs are entitled to compensation under the Bangladesh Labour Act (BLA) 2006 (as modified in 2018), the sum is grossly insufficient. The highest amount of compensation that the heirs or other legal representatives of a deceased worker may get is set at TK 2 lakh. Besides this, Procedures are outlined in chapter xII of the BLA Act 2006 for the provision of compensation in the event of workplace fatalities or injuries.

According to the Fifth Schedule of the Labor Act of 2006, the amount of compensation payable in the event of death shall be Tk 1 lakh, in the event of permanent disability shall be Tk 1,25,000, and if the injured worker is a minor, his compensation shall be Tk 10,000 only (section 151(b)).<sup>38</sup> On the other hand, Any person directly harmed the injured person, or in cases of death then the family members of the died person may file a case under S. 1 of the Fatal Accident Act, 1855 with regard to deaths or injuries resulting from any wrongful act. According to Section 1 of the FAA ( Fatal Accident Act) 1855, the Civil Court has the authority to grant damages in an amount that is commensurate to the loss

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<sup>37</sup> Section 332 of Bangladesh Labour Act of 2006.

<sup>38</sup> Section 151 (b) of Bangladesh Labour Act of 2006.

resulting from the decedent's death. <sup>39</sup>In doing so, it may also include any financial losses that the decedent's estate sustained after his or her death.

11. Every establishment with more than 40 employees is required by section 94 (1) <sup>40</sup>of the Bangladesh Labour Law, 2006 to provide and maintain an appropriate room or rooms for use by children under the age of six years. The reality, however, is far different from what the law says. According to the 2016–2017 Labour Force Survey, there are almost 2 crore women working in various professions across the nation, yet few organizations (especially large industries, banks, and NGOs) offer working mothers a daycare Corner.<sup>41</sup>

On the other hand, If a factory does offer a daycare facility, it may limit the age of the kids who are allowed to attend, which would be against the law. The age restriction is typically set at 3 months, 6 months, or 1 year.<sup>42</sup>

#### **Case study:**

A worker in Norhingapur, Dhaka, claimed in an interview that the daycare facility at her place of employment only accepts infants under the age of six months, therefore she is unable to keep her two-year-old son there. There are no other daycare options available to her. So she was forced to quit her job<sup>43</sup>

For solving this problems, practical implementation of law is mandatory.

**4.3 Conclusion:** in this chapter, the loopholes of the Bangladesh Labour Act ,2006 was point out. Although, the Act was amended several times, even then, there are remains some loopholes. for work on these loopholes of law and improve Bangladesh Labour Act, 2006 like international standard of labor law . It is very necessary to find out these error of law. In the next chapter, other findings about the law and fact regarding work place health and safety for women and children and recommendations about it will be given.

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<sup>39</sup> Section 1 of Fatal Accident Act 1855

<sup>40</sup> Section 94 (1) of the Bangladesh Labour Law, 2006

<sup>41</sup> 2016–2017 Labour Force Survey

<sup>42</sup> Awaj Foundation Study 'Maternity Rights and Childcare in Bangladesh' (2019) 4

<sup>43</sup> *ibid*

## Chapter 5: Concluding Remarks

**5.1 Introduction:** Over the years, Bangladesh's socioeconomic development has been mostly attributed to its workforce. In the previous chapter loopholes of the Bangladesh Labour Act,2006 was discussed. In this chapter findings and recommendations will be given. Although Bangladesh has moved from the status of a least developed country to that of a developing country, there is still work to be done in a number of sectors, including updating pertinent labor laws, norms, and policies to enhance the working conditions for women and children.

### 5.2 Findings:

1. According to the Bangladesh Labour Act, 2006, no child who is below 14 years of age shall be employed or allowed to work but in reality, lots of children are working in establishments or factories.
2. Requirements regarding employment of the adolescents worker under BLA,2006 are violates in many industrial sectors of Bangladesh.
3. Children and adolescents are bound to work as labour because of the poor economic condition of the country.
4. According to Bangladeshi labor law, it is a requirement to establish a safety committee in factories with more than 50 employees. This committee is essential for maintaining OSH (occupational safety and health) policies in factories because its primary duty is to oversee and implement workplace safety issues. However, this committee-establishing system is still lacking as a result of the regulatory authorities' lax accountability.
5. The definition of violence and harassment in the workplace is not added in the Bangladesh Labor Act, 2006.
6. Minimum punishment and problem in enforcement of laws regarding health and safety issues for children, adolescents and women.
7. There is no exact definition of 'light work' or which sorts of work can be identified as 'light work "under section 44 of the Labour Act 2006.

8. A government decree issued in 2013 listed 38 procedures and activities as being dangerous for children and teenagers, including working in a biscuit factory. When the Bangladesh Labour Rules were created in 2015, Rule 68 also included a list of 32 tasks that were thought to be too dangerous for teenagers, which included using cutter machines. According to the 2013 National Child Labour Survey, 1.28 million youngsters were working in dangerous conditions. Second, according to Section 39(3) of the BLA, teenagers cannot be forced to labor between moving parts or between the fixed and moving portions of any establishment's machinery while it is in use. In addition, employment to include drying fish. In order to handle cases of human trafficking, the government also established and sponsored seven anti-trafficking in persons tribunals.
9. Domestic helpers are not officially labour and they are not protected under BLA.
10. The convention no. 190 of international labor organization is a global agreement that affirms everyone's right to an environment free from all forms of harassment and violence at work, including discrimination based on gender. To significantly improve the situation at work, particularly for women, this conversation must be ratified and put into effect in Bangladesh. 43. <https://thefinancialexpress.com.bd/><sup>44</sup>

### **5.3 Recommendation:**

1. Firstly, the country needs inclusive and sustainable economic growth to combat poverty, which is the primary cause of child labor.
2. Poor families should be brought under government safety net so that they do not need to send their children to work.
3. Awareness Campaign about the child labour should be conducted

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<sup>44</sup> Helal Uddin Ahmed, 'Harassment-free workplace for women' The Financial Express (14 July, 2021) 1

4. It is needed to make sure that employers do not force adolescents worker for doing heavy and riskey work in industrial sector.
5. Necessary steps should be taken for ensuring that, the children shall not be employed to do any work which is hazardous in any establishment.
6. Strong punishment should be imposed against the employers for employing child workers.
7. Government as well as the common people of our nation must come forward and take steps to stop child labor in all sectors.
8. Required legal formalities for employment of adolescent worker must be observed by the concern authority.
9. Lawmakers should specify the precise meaning of "light work" and the types of labor that are covered by section 44 of the Bangladesh Labour Act of 2006.
10. Accountibility of employers who intentionally misuse and take advantage of section 44 of Bangladesh Labour Act, 2006 should be ensure.
11. The International Labor Organization's Convention No. 190 upholds everyone's right to a workplace free from all forms of harassment and violence, including gender discrimination.
12. This discussion must be approved and implemented in Bangladesh if we are to notice a meaningful improvement in the working
13. environment, particularly for women.
14. The government should compile a list of employment situations involving children, adolescence, and women for inclusion in the Labour Code, including any fields (such the domestic sector) that, the Labour Act of 2006 does not yet officialy identifying, for inclusion in the Labour Code.
15. The definition of violence and harassment in the workplace should be added in the Bangladesh Labor Act, 2006.
16. Organizations (both large and small) should offer working mothers day care Corner

## **5.4 Conclusion:**

challenges with regard to safety, hygiene, and security. The hardest-hit workers are women and children. The clothing business has written appropriate safety and security standards, but doesn't follow them. As a result, numerous accidents happen in the factories and industries, resulting in people losing their employment, not getting paid on time, getting hurt, and causing damage to the infrastructure of the factories. In addition, all children have a birthright to a guarantee of a typical and idyllic upbringing, but the reality is very hard. Even after 2019, Bangladesh has not succeeded in eradicating child labor, which is a sad but true fact. Basically, the primary factors contributing to the rise of child labor are economic challenges, poverty, and broken laws. However, there should be effective government monitoring and proper implementation of legislation. For create a better workplace for women and adolescent workers.

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