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**Labor Welfare Practices in Tea Garden: A legal analysis**

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**CONSENT FORM**

The Dissertation titled "Labor Welfare Practices in Tea Garden: A legal analysis" prepared by Md. Jaber Al Mamun, ID: 2017-2-66-014 submitted to Sayeed Hossain Sarwar, Senior Lecturer of East West University, for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LLB (Hons.) degree offered by the Department of Law, East West University is approved for submission.

..... Signature of the Supervisor

Date:

### **Acknowledgement**

In the name of Allah, the most gracious and the most merciful, first and foremost, I am thankful to Almighty ALLAH for giving me the strength, knowledge, ability and opportunity to undertake this study and complete it satisfactorily.

I am thankful and pleased to my supervisor, Sayeed Hossain Sarwar, Senior lecturer, East West University, whose worthy guidance and professional attitude is appreciable in completing this dissertation. I am expressing my deep gratitude to him for helping me in my difficulties with patience.

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I am thankful to myself to believe in never give up. I am deeply grateful to my parents for their support, appreciation, encouragement and keen interest in my academic achievements.

## DECLARATION

Md. Jaber Al Mamun, hereby declare that the monograph titled “**Labor Welfare Practices in Tea Garden: A legal analysis**” submitted in fulfillment of the requirements for the LLB (Hons) Degree bodies the results of my own research activity pursued under the supervision of Mr. Sayeed Hossain Sarwar, Lecturer, Department of Law, East West University.

I further declare that this monograph is an original submission which is free from plagiarism and has not been submitted earlier partly or wholly to any other university or institution for any degree or diploma.

## **Labor Welfare Practices in Tea Garden: A legal analysis**

### **ABSTRACT**

Tea sector is the promising sector to earn foreign currency. In Bangladesh there are 163 tea gardens. When the whole world is in ovation of establishing welfare state system, tea plantation laborer deprived from their basic welfare needs for living. Tea plantation laborer drink tea with salt can best exemplifies their situations. Tea plantation laborer is not just a labor issue. They excluded and marginalized section is not enjoying their welfare measures properly as main stream society of the country. They are drinking and using unhygienic water everyday. Their washing facility is unhygienic also. They are dissatisfied with their hosing, education and recreation facilitate system. The maternity benefit is drastically violated. So laws given welfare rights has been violating by employer in tea garden. The purpose of the study is to identify the What are welfare measures under Labor Act, 2006. This research examines, whether the welfare measures are in compliance human rights of the laborer under the Constitution, human rights instrument and ILO Conventions. This research depicts the whole scenario on the current situation of the tea plantation laborer. And it can be progressed the current scenario of welfare of tea garden laborer through implementing mentioned recommendation of this research by the policy makers. Proper implementation of the mentioned recommendation can improve the welfare rights as well as economic growth of Bangladesh.

This study is fully based on Primary level data and reviewing some related literature from past research reports.

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## **Chapter One**

### **Introduction**

#### **1.1 Background of the study**

It is generally believed that the people who work on various tea garden have led lives of unspeakable misery and least paid. Tea plantation laborers have a tragic history of deprivation, exploitation alienation. They are deeply trapped and dependent only on managements for food, healthcare, housing, education, etc. Though the constitution and educational legislation gives the right on study of fundamental stage or study of primary education as obligation.<sup>12</sup> But those laws are not implemented on those area. No implementation of proper medical treatment and hyenic practice of health. They deprived for their maternity benefit also which give a cruel scenario of other welfare rights. They are approximately 145 years away from the mainstream community of the country as their new daily wage system. Despite the welfare rights guaranteed by Labor Law, 2006, tea laborers lack the social and economic support which results into deprivation of human rights, constitutional rights, ILO recommendations and other law of the land. It is important to know their living conditions, poverty level and how they could contribute to the national aspirations of a well jugged society and an inclusive nation where everyone has equal opportunities for health, education and other basic needs.

This research firstly focuses on identifying the welfare measures rights of tea laborers given by various laws. However, the lives of these laborer are still poorly studied. Therefore, we have very little knowledge and study gap about their welfare facilities of their living standard. This study

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<sup>1</sup> The Constitution of the Peoples Republic of Bangladesh, article17

<sup>2</sup> Compulsory Primary Education Act, 1990, section3

also examines the welfare rights of tea plantation laborers in Bangladesh, with necessary determinants to fill up the knowledge and study gap on this this topic.

### **1.2 The research question of the study is as follows**

1. What are welfare measures under Labor Act, 2006?
2. Whether the welfare measures are in compliance human rights of the laborer under the Constitution, human rights instrument and ILO Conventions?

### **1.3 Research Objective**

- To investigate the living conditions of the tea plantation workers.
- To see the education level among the laborers.
- To find out the sanitation, health and recreation of the laborers.
- To suggest certain effective measures to improvement of welfare rights.

### **1.4 Literature Review**

A number of literature have been written about the least wage and living conditions of tea plantation laborer in Bangladesh, but no specialized study dealing their welfare measurement with human rights, ILO recommendation rights, constitutional rights, Labor Law, 2006 given rights and other law of the land given rights has been identified. As a result, with goal of identifying the knowledge gaps this research is accomplished by the use a foundation of books, relevant articles, newspapers and welfare related laws.

ILO made a study report identified that Tea laborers living standard is very inhuman in nature. They face many inhuman treatments other than mainstream society in the country and ultimate result is extreme poverty. They are the least paid worker in the country.<sup>3</sup> It also found that the situation of access to education is very challenging for them because of exploitation circle. And the maternity period of the laborer has no special care with necessary facilities. Instead of proper

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<sup>3</sup> Faisal Ahmmed, Md Ismail Hossain, 'A Study Report on Working Conditions of Tea Plantation Workers in Bangladesh' (2016)< [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms\\_563692.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_563692.pdf)> accessed 1<sup>st</sup> August, 2022

rest they have to do their regular duty in the tea garden. <sup>4</sup> Md Ismail Hossain, Md Al-Amin, Syeda Sultana Parveen (2016) reveals that, the education scenarios of tea garden children show a dismal picture.<sup>5</sup> Dr. Rehana Parveen (2019) reveals that the health and economic conditions of female worker in low degree with many welfare limitations.<sup>6</sup>

### **1.5 Scope and Methodology**

The research scope is to identify the violation of laws given welfare rights of tea plantation laborer for non-implementation. The research is limited in the welfare measures only. The only focusing issue is welfare measures of the tea laborer in what way violating and the effects on their daily life for non-implementation of welfare rights which inextricably violation of human rights, Supreme constitutions and ILO recommendations violations, Labor Law, 2006 given welfare rights and other violation of law of the land provisions.

This research is mainly qualitative research that depends on relevant data and information sources. It can also consider as implement oriented research. This research has also done with both primary and secondary sources as I attempted to summaries the current laws relating labor welfare and rules to light out the situation and as a secondary source's books, online journals, news reports has been utilized.

### **1.6 Limitations**

The research will not extend to the wage diversity, trade union or working hour. The limitation of the study is welfare measures rights of tea plantation laborer will be covered. It will also show the result of non-implementation of those legal rights.

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<sup>4</sup> Ibid

<sup>5</sup> Md Ismail Hossain, Md Al-Amin, Syeda Sultana Parveen, 'Protection of Child Rights in Tea Gardens of Bangladesh: Social Work Perspective(2016)< [https://www.academia.edu/40447909/Protection\\_of\\_Child\\_Rights\\_in\\_Tea\\_Gardens\\_of\\_Bangladesh\\_Social\\_Work\\_Perspective](https://www.academia.edu/40447909/Protection_of_Child_Rights_in_Tea_Gardens_of_Bangladesh_Social_Work_Perspective) >accessed 5<sup>th</sup> August, 2022

<sup>6</sup> Dr. Rehana Parveen , 'Health and Economic Conditions of Tea Garden Female Workers: A Study on Legal Rights' 2019 < [https://green.edu.bd/wp-content/uploads/2019/09/Health-and-Economic-Conditions-of-Tea-Garden-Female-Workers\\_A-Study-on-Legal-Rights.pdf](https://green.edu.bd/wp-content/uploads/2019/09/Health-and-Economic-Conditions-of-Tea-Garden-Female-Workers_A-Study-on-Legal-Rights.pdf) > accessed 6<sup>th</sup> August, 2022

## Chapter Two

### Welfare Measures of Tea Plantation Laborer

#### 2.1 Welfare measures:

Welfare includes everything that is done for the well-being and improvement of employees and is provided in addition to wages. The persistence of workers' welfare is said to improve the working class, which in turn makes a worker a good worker and a happy citizen. Employee welfare is an indispensable part of social welfare. It's about a balance between an employee's working life and family life through to community or social life.<sup>7</sup> Welfare measures are something that is available to the employees in addition to regular wages and other economic benefits under legal provisions and collective bargaining. It raises the standard of living of workers by indirectly reducing the burden on their pocket. Multifarious dimensions of Labor welfare enable laborers to take care of a portly, healthy and a comfortable life. Consequently, it ends up in higher productivity of labor and proficiency of tea sector.<sup>8</sup> ILO recommendation and Labor Law 2006, give complete guidelines of Welfare measures which includes feeding facilities, first aid facility, safety committee, rest facilities, housing, washing, gratuity, health care etc. But in Bangladesh tea laborer deprive to get those facilities after being a member of ILO convention and enacting Labor Law 2006. This kind of welfare is not sympathy; this is their laws given rights.

#### 2.2 Welfare Measure under Labor Law, 2006

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<sup>7</sup> A. Varadaraj, D .Charumathi 'Impact of Welfare Measures on the Quality of Employees Performance with Special Reference to Construction Industry, page 30 (January 2019)

< [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3378905](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3378905) > accessed 1<sup>st</sup> August, 2022

<sup>8</sup> Porag Pachoni ,' Labour Welfare Practices in Tea Industry with Special Reference to Harmutty Tea Estate of Assam Labour Welfare Practices in Tea Industry with Special Reference to Harmutty Tea Estate of Assam' p-75 ( July 2016), < <https://www.thecho.in/files/Porag-Pachoni.pdf> > accessed 1<sup>st</sup> August 2022

The domestic law for tea laborer in Bangladesh is ‘Labor Law 2006. The domestic law give definition as ‘tea plantation’ means any land used or intended to be used for growing tea, and includes a tea factory.<sup>9</sup> This law is the safeguard for welfare measures of tea laborer in Bangladesh. It gives effect on first aid appliance for every 150 workers in every establishment by a trained user of first aid who shall wear a badge for identification. and his name will be visible. It also gives effect to establishment of sick room with a standard facility's dispensary in charge of medical and nursing staff.<sup>10</sup> The law is the concerned for the safety of the workers. That’s why the safety record book and safety committee shall maintain compulsorily wherein more than 25 workers.<sup>11</sup> The washing facilities have to be adequate and suitable to washing and bathing for the use of the workers. It will be separate and well-screened facilities shall be provided for men and women. These facilities must be easily accessible and kept clean. Standards of adequate and suitable facilities for washing will be prescribe by the government.<sup>12</sup> . The law imposes a duty to the Governments may issue regulations that provide standards for construction, accommodation, furniture and other facilities of canteen; and the establishment of a managing committee for the canteen and the representation of the workers in canteen is management staff. And what kind of food will be available in the canteen and their price will be determined by managing committee.<sup>13</sup> The law talks about standard rest room also. If there are above 25 female workers then the rest room will be separated and where the number is below 25, the separate and adequate spaces with screen shall be provided.

The rooms for the children with the described child friendly environments for wherein 40 workers employed must be maintained for the children of under the age of 6 of such women. Supply of toys and playground shall be provided for the older child.<sup>14</sup> The government make rules of recreational facilities for tea plantation laborer and their children.<sup>15</sup> Where tea workers' children live from 6 to 12 years old pass rules requiring employers to provide if the number of employees

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<sup>9</sup> Section 2 (x-a) of Labor Law, 2006

<sup>10</sup> *ibid* at section 89

<sup>11</sup> *ibid* at section 90

<sup>12</sup> *ibid* at section 91

<sup>13</sup> *ibid* at section 92

<sup>14</sup> *ibid* at section 94

<sup>15</sup> *ibid* at section 95(a)

exceeds 25 and the educational facilities for children served in prescribed manner.<sup>16</sup> Establishment of medical centers for the tea plantation laborer and their children has to be adequate.<sup>17</sup> All employers of tea plantations must provide housing facility for all tea plantation workers and their families.<sup>18</sup> And the employer should ensure the availability of daily necessities of life in tea garden.<sup>19</sup> The law of the land also makes provisions for compulsory group insurance wherein 200 workers are employed.<sup>20</sup>

### **2.3 Bangladesh Tea Workers Welfare Fund Act, 2016**

There is a domestic law which is only for tea plantation laborer. Bangladesh Tea Workers Welfare Fund Act, 2016 give effect on some welfare measures right of tea plantation laborer. If any labor is declared to be permanently incapacitated by the medical practitioner prescribed by regulations, physically or mentally in the discharge of his or her duties, and is there for retired, removed or discharge from services and also died within 5 years from the date of retirement, in case of death, his wife or wives or husband will be sanctioned as one time grant assistance from the fund as prescribed by the regulations. The Board may sanction a welfare grant from the fund for the marriage of the daughter of a worker who is deceased or permanently disabled or in extreme distress. The Board may sanction welfare grant for a period of one year on monthly basis for the education of the children of any worker who is in service, deceased or permanently disabled. This welfare will be renewable on an annual basis by the board if deemed necessary for the successful completion of any course. The board may grant special welfare grants from the fund to any worker or his family for any or all of the following purposes:

- Any type of medical assistance including blood transfusion;
- Purchase of glasses and other supporting accessories for the body;
- Burial or funeral expenses;
- Assistance for bodily injury or accidental damage and

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<sup>16</sup> ibid at section 95(b)

<sup>17</sup> ibid at section 95(c)

<sup>18</sup> ibid at section 96

<sup>19</sup> ibid at section 97

<sup>20</sup> ibid at section 99

- Purchase of textbooks.<sup>21</sup>

And The Board may grant a special welfare grant from the Fund to a worker or his family in addition to the grant mentioned in sub-section (1) in case of extreme financial distress of a worker.<sup>22</sup>

The special welfare grants under Sections 9, 10 and 11 shall be paid at the rate prescribed by the regulations and in any case where the said rate is not prescribed at the rate prescribed by the Board considering its importance.<sup>23</sup>

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<sup>21</sup> Section 11(1) at *ibid*

<sup>22</sup> Section 11(2) at *ibid*.

<sup>23</sup> section 12 at *ibid*

## Chapter 3

### Violation of Constitutional Rights, Human Rights and other related rules

Human rights are universal and they are the birthright of every member of the human society. Constitutional right may be a prerogative or a duty, a power or a restraint of power, identified and set up with the aid of using a sovereign state. And no law has to be enacted against the human rights and constitutional rights. So any law violation is connected with constitution. And when there is tea laborers welfare rights violation this is against the human rights also. So many violation on Welfare measures.

#### 3.1 Violation of constitution

The welfare measures have inextricably connection with Constitutional rights. Welfare is a kind of right which has wide area to belong in human rights. The ultimate law of the nation, the constitution of the People's Republic of Bangladesh declares explicitly about the exploitation free democratic socialist society wherein the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens.<sup>24</sup> The state will ensure the socialist economic system for establishment of a just and egalitarian society in where there is no existence of exploitation.<sup>25</sup> Constitution imposes a fundamental responsibility to the state abolish exploitation to emancipate the toiling masses the peasants and workers and backward sections.<sup>26</sup> Constitution imposes some other fundamental responsibility to the state to achieve a

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<sup>24</sup> Preamble of The Constitution of the Peoples Republic of Bangladesh.

<sup>25</sup> Article 10 at ibid

<sup>26</sup> Article 14 at ibid



constant increase in productive forces and a constant improvement in the material and cultural living standards of the people through planned economic growth, in order to guarantee its citizens – the basic necessities of life, including food, clothing, shelter, education and medical care. Right to a guaranteed job at a reasonable salary, taking into account the quantity and quality of the work and establishing the right of reasonable rest, recreation and leisure is another responsibility of the state. Social Security for the sufferer is states responsibility also.<sup>27</sup> And it is states duty to take effective steps for improvement of rural area by promoting agriculture revolution and providing rural electrification, developing home and other industries, improving education, communications and public health to gradually eliminate the differences in living standards.<sup>28</sup> The states another duty to establishing a uniform, mass oriented and universal system of education to meet the needs of society and produce appropriately educated and motivated citizens to meet those need.<sup>29</sup> Education will be free and compulsory for all children to such stage as may be determined by law and removing illiteracy by operation of law. It is the safeguard of the fundamental rights<sup>30</sup> Constitution denotes work as a right every will paid by the way of a Karl Marx theory “from each according to his abilities, to each according to his work”<sup>313233</sup>

### 3.2 Human right Provisions on welfare rights of the laborer

Human rights are a kind of a right which is believed to belong to everyone. Human Rights give same protection for all human beings in the shade of brotherhood. All human beings are born free and equal in dignity and rights. they are Equipped with reason and conscience, destined to be against each other in the spirit of brotherhood.<sup>34</sup> Everyone is entitled to all rights and freedoms without distinction type, such as race, color, gender, language, religion, political or other opinion;

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<sup>27</sup> Article 15 at *ibid*

<sup>28</sup> Article 16 at *ibid*

<sup>29</sup> Article 17 at *ibid*

<sup>30</sup> Article 44 at *ibid*

<sup>31</sup> Article 20(1) at *ibid*

<sup>32</sup> Schaff, Kory (2001). *Philosophy and the problems of work: a reader*. Lanham, Md: Rowman & Littlefield. pp. 224. ISBN 978-0-7425-0795-1

<sup>33</sup> Walicki, Andrzej (1995). *Marxism and the leap to the kingdom of freedom: the rise and fall of the Communist utopia*. Stanford, Calif: Stanford University Press. p. 95. ISBN 978-0-8047-2384-8.

<sup>34</sup> Article 1 of Universal Declaration of Human Rights

Nationality or social origin, wealth, birth or other status. Besides, nor the distinction may be political, legal, or the international status of the country or territory to which a person belongs.<sup>35</sup> right to life, liberty and security of person ensured by UNDHR.<sup>36</sup> UNDHR prohibited the slavery in all at form.<sup>37</sup> It ensures right to use law and equal before law. Everyone has the right to equal protection from all infraction of discrimination. Everyone who works has the right to just and favorable remuneration, which ensures a decent existence for himself and his family, supplemented, if necessary, by other security measures.<sup>38</sup> Everyone has the right to a standard of living adequate for his health and well-being and that of his family, food, clothing, housing and necessary medical and social services, as well as the right to security in the event of unemployment, sickness, disability, widowhood, age or other lack of support due to circumstances beyond their control. Maternity and childhood are entitled to special care and assistance. All children enjoy the same social protection.<sup>39</sup> Everyone will enjoy the right of relaxation and leisure, together with affordable limitation of working hours and periodic vacations with pay. <sup>40</sup> UNDHR explain education as full development of the human personality and to strengthening of respect for human rights and fundamental freedoms. Everyone has the right to education. Education will be free, at least at the elementary and fundamental levels. Primary education will be compulsory. Technical and vocational education must be accessible to all, and higher education must be equally accessible to all on the basis of merit.<sup>41</sup>

### **3.3 ILO rules on welfare measures:**

Plantations Recommendation, 1958 give effect on tea laborers welfare measures.<sup>42</sup> This recommendation in its preliminary provisions give effect to tea plantation worker in the tropical

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<sup>35</sup> Article2 at ibid

<sup>36</sup> Article3 at ibid

<sup>37</sup> Article 4 and 5 at ibid

<sup>38</sup> Article 23 at ibid

<sup>39</sup> Article 25 at ibid

<sup>40</sup> Article 24 at ibid

<sup>41</sup> Article 26 at ibid

<sup>42</sup> Plantations Recommendation, 1958 (No. 110)

or subtropical regions in addition to concerned with the cultivation or production for commercial purposes of tea.<sup>43</sup> It is the safeguard for the all-tea plantation laborer of the world. ILO in a recommendation gives guideline of right to basic facilities for better experience in work place and its interpretation is not narrow. In regions where there aren't enough facilities to get the right food, drinks, and meals, measures should be implemented to give workers access to those facilities.<sup>44</sup> It talks about for reasons of health to use any provided feeding facilities except where required by national laws and regulations for health reasons.<sup>45</sup> . And the recreation facility has to provide and the use of any amenities offered shouldn't ever place the employees under any kind of obligation.<sup>46</sup> Under no circumstances should a worker be forced to pay for welfare services that he does not personally intend to use.<sup>47</sup> Welfare measures is a spirit of good working environment. And by giving appropriate measures facilities to establish the recreation facility in real need basis of work place.<sup>48</sup> the diversity of welfare facilities and national practices regarding the provision, facilities listed in this part of the Recommendation provided by public or voluntary means either by law and regulation, or by the competent authority after consultation with employers' and workers' organizations, or by collective agreement, or by the employers and workers concerned.<sup>49</sup> The welfare facilities have to be established through laws and regulations, or in any other manner approved by the competent authority after consultation with employers' and workers' organizations, or by virtue of collective agreement or as otherwise agreed upon by the employers and workers concerned.<sup>50</sup>

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<sup>43</sup> Article 1 at *ibid*

<sup>44</sup> Article 35 at *ibid*

<sup>45</sup> Article 36 at *ibid*

<sup>46</sup> Article 38 at *ibid*

<sup>47</sup> Article 42 at *ibid*

<sup>48</sup> Article 37(1) at *ibid*

<sup>49</sup> Article 34 at *ibid*

<sup>50</sup> Article 39 at *ibid*

## **Chapter Four**

### **Various Violation of Welfare Measures**

Violation of welfare measures is a very common practice in the tea garden. Lots of violation of many laws situation in predominate position. Which create a custom to violate the law of the land relating to the welfare measure of tea laborer.

#### **4.1 Drinking Water**

No matter safe drinking water is utilized for drinking, domestic use, food production or recreation, it is crucial for maintaining public health. In tea garden lacking of safe drinking water is pretty normal issue that the laborer used to on that crucial matter. Section 58 of the BLA 2006 give the right of easy access to the safe drinking water along with in summer the drinking water have to be cold enough for drinking and if any labor feels dehydrated then there will be a treatment of re-hydration but tea laborer have not this facilities. So, they basically depend on the water of small drains. In winter, there is no flow of unsafe water also. In dry season they have to walk mile or more to access to water from streams for bathing and washing. There is tube well also but they are

not the number of satisfactory to provide all of them fresh drinking water.<sup>51</sup> In dry season they dig cave for their water supply and it take half of the day to fill with water. Though they don't get any permanent resource of drinking water so they suffering from many waters borne diseases.<sup>52</sup>

## 4.2 Washing Facilities

As a basic human necessity, access to adequate and healthy washing facilities should be freely available wherever, including at work. The work place has shortage of latrine. In hilly area it is impossible to go latrine for the worker because it is far away from the place of work.<sup>53</sup> In Moulvibazar there are several tea gardens and their hygiene practices are lower than low. In that area only 13 percent of the total worker use hygienic latrine and rest of the 87% use open places or unhygienic washroom. This is injurious for health and nature also. 93% of the respondent argue that they don't use any sandal while going for defection. And there is only 15% respond that they have facility of washing facility and rest of the 85% have no access to this type of facilities.<sup>54</sup> There is no contribution from employer for sanitation and other related activities. They build some Ring well, Indira or Kua only. Some local NGO named Caritas and Brac provide 30 set of sanitary latrines. Most of the worker used to leave their feces and pee in open spaces like hillsides, drains and open fields. There are many female workers but many of sanitation places dry banana leaves are used as the fencing with two bricks are used to keep the foot in place while getting off the stool and there is a situation that a latrine used by 10–40% people randomly.<sup>55</sup>

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<sup>51</sup>Sm. Sohrab Hossain, 'Wage Pattern and Livelihood of Tea Garden Laborer: A Study On Loobacherra Tea Estate, Kanaighat, Sylhet, Bangladesh' p-70 (2015) < <https://core.ac.uk/download/pdf/61807646.pdf> > Accessed 3<sup>rd</sup> August, 2022

<sup>52</sup>ibid

<sup>53</sup> Neaz Ahmed & Abul Kashem, 'Health and Hygiene Practice of Tea Garden Workers in Bangladesh' Global Journal of Human , p-41 (2019 < <https://socialscienceresearch.org/index.php/GJHSS/article/view/2827> > accessed 3<sup>rd</sup> August, 2022

<sup>54</sup> <sup>48</sup> Md. Sohel Mahmud, Md Shahjahan Miah and Mst Nusrat Jahan, 'Hygiene practices and health: A study on the tea garden workers in Moulvibazar District, Bangladesh' p- 50032-50034 (May 2017), < <https://www.journalcra.com/article/hygiene-practices-and-health-study-tea-garden-workers-moulvibazar-district-bangladesh> > accesses 6<sup>th</sup> August, 2022

<sup>55</sup> Sm. Sohrab Hossain, 'Wage pattern and livelihood of tea garden laborer: A study Loobacherra Tea Estate, Kanaighat, Sylhet, Bangladesh' p- 51-53 (July 2015)

### 4.3 Electricity

In this modern era, electricity is a fundamental need to live. But most of the tea garden laborer excluded from this facility. Town areas tea garden have this facility but hilly area laborer does not get this. In tea garden, 71% laborer have no access to the electricity.<sup>56</sup>

### 4.4 Safety Committee

In the tea garden where tea leaves are picked, no machinery is used. Occupational hazards in this industry are considered minimal. Hazards from scorching sun, mosquitoes and other insect bites are very common. Hazards from spraying pesticides and using chemical fertilizers on tea gardens are also common practice. About 71% of workers spraying pesticides in fields were not wearing gloves and masks. Also, laborer was not trained to apply pesticides to gardens. The laborers suffer eye problem and skin diseases.<sup>57</sup> This indicate the failure of safety committee.

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< [https://www.academia.edu/28528967/Livelihood pattern among the Tea garden labours Some Observations](https://www.academia.edu/28528967/Livelihood_pattern_among_the_Tea_garden_labours_Some_Observations) > accessed 8<sup>th</sup> August, 2022

<sup>56</sup> Md. Yasin, Iftekhar Ahmed, 'Study on Socio-Economic and Educational condition of Tea Worker at Sylhet in Bangladesh, p-4 ( September,2015) < [https://www.researchgate.net/profile/Md-Yasin-5/publication/341464168\\_Study\\_on\\_Socio-Economic\\_and\\_Educational\\_condition\\_of\\_Tea\\_Worker\\_at\\_Sylhet\\_in\\_Bangladesh/links/5ec3083ea6fdcc90d6825858/Study-on-Socio-Economic-and-Educational-condition-of-Tea-Worker-at-Sylhet-in-Bangladesh.pdf](https://www.researchgate.net/profile/Md-Yasin-5/publication/341464168_Study_on_Socio-Economic_and_Educational_condition_of_Tea_Worker_at_Sylhet_in_Bangladesh/links/5ec3083ea6fdcc90d6825858/Study-on-Socio-Economic-and-Educational-condition-of-Tea-Worker-at-Sylhet-in-Bangladesh.pdf) >

<sup>57</sup> Dr. Rehena Parvin, 'Health and Economic Conditions of Tea Garden Female Workers: A study on Legal Rights', p- 113,115 (June-2018)  
< [https://www.researchgate.net/publication/326349880\\_Health\\_and\\_Hygiene\\_Condition\\_of\\_Female\\_Tea\\_Workers\\_A\\_Study\\_in\\_Three\\_Tea\\_Gardens\\_of\\_Sylhet\\_District](https://www.researchgate.net/publication/326349880_Health_and_Hygiene_Condition_of_Female_Tea_Workers_A_Study_in_Three_Tea_Gardens_of_Sylhet_District) > accessed 17<sup>th</sup> August 2022

#### 4.5 First Aid

When laborer is injured on the job, they go to the garden pharmacy. If they are seriously injured, they go to government hospital for better treatment. Sometime authority gives transportation facility. The cost of transportation and buying medicine on the laborer. It is very rare scenario that the garden authorities pay part of the cost of treatment. The complain about the emergency injury and its mechanism of handling is not satisfactory. In emergency time unavailability of doctor is a common scenario.<sup>58</sup>

#### 4.6 Maternity Benefits

Motherhood deserves special care and assistance. But in tea garden pregnant worker pluck leaves until the day, they give birth. Some of the worker give birth while they working on the garden. Many of them give birth in the garden territory before they can be taken to hospitals which are far away from the gardens.<sup>59</sup>

Many female laborers do not receive adequate rest and care during pregnancy. And in most cases, births are usually done at home with the help of phony Dais<sup>60</sup>

There are also lack of female doctor is another problem for the female workers. They feel shy before male doctors.<sup>61</sup> Some worker aware about the maternity but most of them has no proper idea. For lack of knowledge, tea garden become the residence of superstition. They believe that if

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<sup>58</sup> Neaz Ahmed & Abul Kashem, 'Health and Hygiene Practice of Tea Garden Workers in Bangladesh' – Social Science p-39 (2019) < <https://socialscienceresearch.org/index.php/GJHSS/article/download/2827/2716/> > Accessed 15 August, 2022

<sup>59</sup> Sabrina Miti Gain, 'Tea workers: The womens tale' Bangla Tribune (November 22, 2018) < <https://archive.dhakatribune.com/magazine/weekend-tribune/2018/11/22/tea-workers-the-women-s-tale> > accessed 6 September, 2022

<sup>60</sup> Dr. Rehana Parvin, 'Health and Economic Conditions of Tea Garden Female Workers: A study on Legal Rights', p- 116,117 (June-2018) < [https://www.researchgate.net/publication/326349880\\_Health\\_and\\_Hygiene\\_Condition\\_of\\_Female\\_Tea\\_Workers\\_A\\_Study\\_in\\_Three\\_Tea\\_Gardens\\_of\\_Sylhet\\_District](https://www.researchgate.net/publication/326349880_Health_and_Hygiene_Condition_of_Female_Tea_Workers_A_Study_in_Three_Tea_Gardens_of_Sylhet_District) > accessed 9th August 2022

<sup>61</sup> ibid

they provide more food to the mother then child size will be small and mother will not recover quickly. And for that they stop giving proper food to the mother in crucial pregnancy time.<sup>62</sup>

#### 4.7 Baby Corner

A suitable baby corner has to be ensured in the garden. Most of the garden have no baby corner. They keep their baby in house with other schhol going kin. It is very risky for their health and childhood also. Though some garden has baby corner but they remain unused and the caring system is not suitable for the babies.<sup>63</sup> Most of the time, mothers take their children with them in the work place the baby have to tolerate sunlight, rain, wind and insects bite also. <sup>64</sup>

#### 4.8 Medical treatment

Medical treatment means the treatment and cure of patient to combat illness or disability. Treatment has several important functions beyond just restoring or maintaining health. Laborer complain about the quality of treatment they receive from gardens authority. They report that the same pills are given for all types of disease. Even where there are hospitals then health centers, shortage of medicines, medical equipment's and qualified doctors are widespread. Most gardens do not have MBBS doctors. If have then they come only once a week. Most pharmacies are run by paramedics, and most of the paramedics have no proper medical training. A shocking matter is that privately owned 55 gardens have no hospitals and 23 of them have no dispensaries. <sup>65</sup> National

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<sup>62</sup> Neaz Ahmed & Abul Kashem, ' Health and Hygiene Practice of Tea Garden Workers in Bangladesh' p- 41 (2019), < <https://socialscienceresearch.org/index.php/GJHSS/article/download/2827/2716/> > accessed 10<sup>th</sup> August, 2022

<sup>63</sup> Md ismail Hossain, Md Al-Amin, Syeda Sultana Parveen' 'Protection of Child Rights in Tea Gardens of Bangladesh, p-12 (2017) < <https://www.academia.edu/resource/work/40447909> > accessed 25<sup>th</sup> August, 2022

<sup>64</sup>Faisal Ahmmed, Md. Ismail Hossain,' A study Report On Working Conditions of Tea Plantation Workers in Bangladesh, p-39-40 (December,2015) < [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms\\_563692.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_563692.pdf) > Accessed, 25<sup>th</sup> Aug, 2022

<sup>65</sup> Statistical Report (Bangladesh Tea Board [BTB] 2005)



health programs like d-worming, vaccination and vitamin A capsule campaign are not the level of satisfactory.<sup>66</sup> From the female workers point of view, the main problem is to consult male doctor in the dispensary. They feel shy and hesitant to see male doctors on gynecological problems.<sup>67</sup>

Most of them has no idea and risk about the HIV/ AIDS and other sexual disease. Most of them do not use condom also.<sup>68</sup> There are no arrangement of EPI activities and the family planning activities.<sup>69</sup>

And another tragedy is that, tea laborer was in their workplace for regular duty as regular basis on the time of Covid-19 pandemic. Many laborers died by the pandemic. There were no at least the Covid-19 testing facility and the isolation center. Owners were reluctant to offer tests, while workers tend to hide their illness unless symptoms became too obvious for fear of losing the day's wages. Wherein the daily wage of the laborer is highest 120 taka then if the test results are positive, the resulting costs of treatment may be too high afford for tea plantation workers. That time there were shortage of mask, sanitize or other safety equipment also.<sup>70</sup>

#### 4.9 Education

Education is the act or process of educating or being educated in the way of formal schooling or teaching training. But tea worker deprives on that important sector. For that they are not

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<sup>66</sup> ibid

<sup>67</sup> Dr. Rehena Parvin, 'Health and Economic Conditions of Tea Garden Female Workers: A study on Legal Rights', p- 116, (June-2018), < [https://www.researchgate.net/publication/326349880\\_Health\\_and\\_Hygiene\\_Condition\\_of\\_Female\\_Tea\\_Workers\\_A\\_Study\\_in\\_Three\\_Tea\\_Gardens\\_of\\_Sylhet\\_District](https://www.researchgate.net/publication/326349880_Health_and_Hygiene_Condition_of_Female_Tea_Workers_A_Study_in_Three_Tea_Gardens_of_Sylhet_District) > accessed 13<sup>th</sup> August 2022

<sup>68</sup> Md Ziaur Rahman, Md Nazirul Islam Sarker, Nazmul Huda, Sajedul Islam Khan, A. B. M. Nurullah, Md Rafiuz Zaman, ' Assessment of Socio-Economic and Sexual Vulnerability of Tea Workers in Bangladesh' p- 237 (2018) < [https://www.researchgate.net/publication/328852151\\_Assessment\\_of\\_Socio-Economic\\_and\\_Sexual\\_Vulnerability\\_of\\_Tea\\_Workers\\_in\\_Bangladesh](https://www.researchgate.net/publication/328852151_Assessment_of_Socio-Economic_and_Sexual_Vulnerability_of_Tea_Workers_in_Bangladesh) > 13 August, 2022

<sup>69</sup> S. M. Sohrab Hussain, ' Wage pattern and livelihood of Tea Garden laborer : a study on Loobacherra Tea Estate, Kanaighat, Sylhet, Bangladesh, p- 63-64 (July, 2015) < <https://core.ac.uk/download/pdf/61807646.pdf> > accessed 16 Aug 2022

<sup>70</sup> Philip Gain, 'Tea workers routinely ignored during the Covid-19 Pandemic' The Daily Star Opinion ( August 24, 2021) <https://www.thedailystar.net/views/opinion/news/tea-workers-routinely-ignored-during-the-covid-19-pandemic-2159091> accessed 4<sup>th</sup> September, 2022)

educationally capable to think about their prosperity. The school is situated in far from the garden and the garden is in remote area. That's why the children from tea garden have little access to the government primary schools. Authority provided schools teacher is not qualified and unavailability of educational staff is the common characteristics of these schools. The majority of the laborer (65-80%) are illiterate and (20-35%) do not even have primary education.<sup>71</sup> Students in schools in tea garden areas are not eligible for benefits under the primary education scholarship scheme, while overall 5.4% of children attending primary school have not returned to school following the Covid19 outbreak.<sup>72</sup> They leave schools and colleges due to the lack of high schools or colleges in the area. Due to chronic poverty, their parents inspire them to do familial activities or pluck leaves for their parents target fulfillment. Though they establish many primary schools but they opposed to establish high schools and colleges. The policy is that, if they find the facility of higher education then they will not work in garden and the garden authority would face paucity of cheap laborer. And if they get higher education then they will demand from each according to his abilities, to each according to his work” as higher position in the factory and that are extremely low.<sup>73</sup>

#### 4.10 Recreation

Recreational facilities are very poor and limited in the tea garden. Though the garden authority has the duty to establish recreational facility in the garden but they are silent about this matter. Children have no time to meet the recreation. They are very busy in familial activities, such as collecting drinking water and fire wood, taking care of younger member of the family etc. There

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<sup>71</sup> G M Jahid Hasan, 'A Study on Existing WATSAN Condition of Two Tea Gardens in Maulvi bazar' p- 15 (March 2012) < <https://www.banglajol.info/index.php/JESNR/article/view/10125/7505> > accessed 17 August, 2022

<sup>72</sup> Md Shahnawaz Khan Chandan, 'Plight and struggle of tea workers continue forever' The Daily Star, ( DhakaAug 27, 2022) < <https://www.thedailystar.net/weekend-read/news/tears-tea-gardens-3104101> > accessed 7 September,2022

<sup>73</sup> Md Ismail Hossain, Md. Al-Amin, Syeda Sultana Parveen, 'Protection of Child Rights in Tea Gardens of Bangladesh: Social Work Perspective' p- 45-46 (December, 2016) < [https://www.researchgate.net/publication/356960485\\_Protection\\_of\\_Child\\_Rights\\_in\\_Tea\\_Gardens\\_of\\_Bangladesh\\_Social\\_Work\\_Perspective](https://www.researchgate.net/publication/356960485_Protection_of_Child_Rights_in_Tea_Gardens_of_Bangladesh_Social_Work_Perspective) > accessed 17<sup>th</sup> August,2022

is no play ground in the tea garden. Religious feasible is the only source of recreation.<sup>74</sup> The fusible Bonus is maximum 700 taka and casual worker do not get any bonus. The bonus depends on experience of the worker and nature of the duty.<sup>75</sup> Most of the respondent admit that they have full rights to celebrate those religious festivals. But the minority of other religious community in the garden face problems by the majority in their religious and social festival.<sup>76</sup> The authorities themselves supply alcohol to the tea workers, mostly confining them to the confines of the garden. This negatively affects their productivity.<sup>77</sup>

#### 4.11 Housing

Housing of the tea laborer is the responsibility of the employer. Houses of all tea gardens are dilapidated, very small in length and living with crowding situation. Sometimes up to 10 people crammed into a single 8 x 12-foot room.<sup>78</sup> One permanent labor gets a two rooms house. One is for sleeping and another is for cooking. But two permanent member of a family do not get two house. Authority do not provide any construction cost also. They only provide land, sun grass and

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<sup>74</sup> Md. Ismail Hossain, Md. Al-Amin, Syeda sultana Parveen, 'Protection of Child Rights in Tea Garden of Bangladesh: Social Work Perspective' p-49 (2017) < [https://www.researchgate.net/publication/356960485\\_Protection\\_of\\_Child\\_Rights\\_in\\_Tea\\_Gardens\\_of\\_Bangladesh\\_Social\\_Work\\_Perspective](https://www.researchgate.net/publication/356960485_Protection_of_Child_Rights_in_Tea_Gardens_of_Bangladesh_Social_Work_Perspective) > accessed 19<sup>th</sup> August, 2022

<sup>75</sup>. Sm. Sohrab Hossain, 'Wage Pattern and Livelihood of Tea Garden Laborer: A Study On Loobacherra Tea Estate, Kanaighat, Sylhet, Bangladesh' p-69 (2015) 69< <https://core.ac.uk/download/pdf/61807646.pdf> > accessed 21<sup>st</sup> August, 2022

<sup>76</sup> Tulshi Kumar Das, 'Human Rights of The Tea Gardeneras: Case Study of Selected Gardens In Sylhet' Asian Affairs, p- 32-33 (July-September 2006) < <https://www.academia.edu/resource/work/27128985> > accessed, 21<sup>st</sup> August, 2022

<sup>77</sup> <sup>69</sup> Dr. Rehana Parvin, 'Health and Economic Conditions of Tea Garden Female Workers: A study on Legal Rights', p- 119,120 (June-2018), < [https://www.researchgate.net/publication/326349880\\_Health\\_and\\_Hygiene\\_Condition\\_of\\_Female\\_Tea\\_Workers\\_A\\_Study\\_in\\_Three\\_Tea\\_Gardens\\_of\\_Sylhet\\_District](https://www.researchgate.net/publication/326349880_Health_and_Hygiene_Condition_of_Female_Tea_Workers_A_Study_in_Three_Tea_Gardens_of_Sylhet_District) > accessed 23<sup>th</sup> August 2022

<sup>78</sup> . <sup>72</sup>Sm. Sohrab Hossain, 'Wage Pattern and Livelihood of Tea Garden Laborer: A Study On Loobacherra Tea Estate, Kanaighat, Sylhet, Bangladesh' p-27 (2015) 69< <https://core.ac.uk/download/pdf/61807646.pdf> > accessed 21<sup>st</sup> August, 2022

bamboo. Laborer construct their own house by their own cost in off day. Many workers complain that the owner did not provide any house.<sup>79</sup>

## **Chapter 5**

### **Loopholes in the current body of law**

#### **5.1 Loopholes**

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<sup>79</sup> Sm. Sohrab Hossain, 'Wage Pattern and Livelihood of Tea Garden Laborer: A Study On Loobacherra Tea Estate, Kanaighat, Sylhet, Bangladesh' p-69 (2015) < <https://core.ac.uk/download/pdf/61807646.pdf> > accessed 29<sup>st</sup> August, 2022

In Bangladesh the ultimate safeguard of tea plantation laborer is Labor Law, 2006 along with Bangladesh Tea Workers Welfare Fund Act, 2016. In point of my view, there are serious lacking in laws are in the below:

1. There will be no separate shelter room availability for female workers if they are in number less than 25. This is the lacking of the law.<sup>80</sup>
2. If the number of the female workers below 40, then those female workers child did not enjoy the baby care room facility in the garden.<sup>81</sup>
3. Housing facility is ensured by the law but what is the structure of the house and design of the house is not described there.
4. If the number of the laborer below 250 then they will not get the cool water facility.<sup>82</sup>
5. Oral Re-hydration therapy only for the machinery produces excessive heat purpose not for the sun produces heat for the tea laborer.<sup>83</sup>
6. For the deceased or poor workers daughter will get marriage grants but for unknown reason it is not applicable for the son.<sup>84</sup>
7. Education grants will not renewable if the welfare grants committee admit that it is necessary for end of educational coerces which indirectly denial of education in certain condition.<sup>85</sup>

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<sup>80</sup> Section 93(3) of Labor Law, 2006

<sup>81</sup> section 93(1) at ibid

<sup>82</sup> Section 58(3) at ibid

<sup>83</sup> Section 58(4) at ibid

<sup>84</sup> Section 9 of the Bangladesh Tea Workers Welfare Fund Act, 2016

<sup>85</sup> Section 10 at ibid

## **Chapter Six**

### **Findings**

#### **6.1 Findings of the research**

The main purpose of the study is to determine how the tea plantation laborers welfare rights are violating by denying the Human rights, Plantation recommendation, 1958, Supreme Constitution, Labor Law, 2006 and other domestic laws implementation. And the effect of those non implementation of those laws' rights of welfare. The welfare rights of tea plantation laborer are severely hampered and they live in the last page of human right violation. tea plantation laborer is the ethnic sects of the society but they are unprotected and undeveloped. Total opposite scenario of Article 23(A) of the supreme Constitution. Their daily income is too low that they are not able to arrange sufficient livelihood for the family. In Tea Gardens, there is no extra care for the pregnant mother. Which denying the special care of motherhood. There are no child care facilities in the garden.

Mother have no proper access to her baby on workplace It effect on new born child's health and restraining other sibling from their education and recreation. Which denying the special care of the childhood.

There is no proper EPI campaign, Vitamin A Capsule campaign, family planning activities arrangement in tea garden. IT indicate the high birth ratio and cheap labor from this frustrated community whose are deprived from childhood for their welfare measures. Employer given Two rooms house is not quality full for standard living and overall, an overcrowded and huddled situation. Children work here as a substitute or helping hand of the other family member to fulfill the target of each day. It is denying the recreation facilities access and obstacle to entrance on education. Children are deprived from education facility.

Primary schools are lack of teachers and other educational material. Higher degree of dissatisfaction in education sector. The unavailability of secondary schools and colleges in the area caused them to drop out. Without the educational knowledge they will never able to break the chain of social exploitation and slavery. The authority is busy to promoting drugs to keep them

isolated from the excess of education, recreation, freedom thought and conscience. Instead of recreation facility, the authority promotes drugs which destroy their basic sense. When a society is out of the education, they will not be able to be conscious about their rights. In reality they don't know even about their daily basic needs. There are no proper hygiene practices. The authority did not take any effective steps to provide pure drinking water for the laborers and their family members in the garden. For shortage of sanitary latrine, tea garden workers use open space for defecation, which are very unsanitary and prone to various sanitary ailments. It is also the security problem for the females in the garden. Where there is no proper maternity and medical facilities for pregnant mother, then it is also representation of others medical related welfare. They all are violation of welfare rights of various laws. Those violations indicate the blue print of exploitation. And the authority succeeds to establish and adopt the term of Modern slavery in tea garden.

## **Chapter Seven**

### **Recommendation and Concluding Remark**

#### **7.1 Recommendations**

Following recommendations are provided for developing tea plantation laborers welfare:

1. The wage of the tea plantation laborers must be reasonable and consistent with current market price of basic necessities as per their charter of demand.
2. The management have to provide standard living house for workers and their family members with the proper facility of water, cooking and sanitation.
3. Supply of pure drinking water has to be established in suitable places. The authority has to provide pure drinking water by bottled though they are hilly area. Every household should have access to clean drinking water.
4. Sufficient number of sanitary latrines and bathroom must be increased with laws given criteria and it will be separate for male and female. In the hilly area of garden, the mobile toilet system is effective idea to meet the goal.
5. Government and the authority have to build sufficient number of primary school, secondary school and college nearby the garden. Government should take necessary steps to provide access in higher education and education should be in higher priority. Adult education and technical education system should be available.
6. Medical facilities must be increased with priority. Availability of MBBS doctor has to be ensured with necessary equipment and dispensary will be full of necessary medicines. A hospital with minimum 10 seats in tea garden is time demand.
7. The maternity benefit will be full of extra care and facilities to ensure the specialty of motherhood. maternity leave and laws given facilities should be ensured. The garden hospital will be facility of vaginal and seizure birth.
8. There shall be a baby corner with necessary adequate accommodation in sanitary condition and conveniently accessible to the mother.
9. Electricity is the criteria of improvement in daily basics and it should be provided to every worker's house.
10. EPI, family planning, vitamin A capsule campaign activity should be in running process with strong motivation.
11. It is badly need to organize recreational activities as per the law give direction. Management must arrange number of tournament at times for promotion of recreation.



12. Government has to take proper steps to abolish the indirect promotion of drugs or availability of drugs by management in the tea garden. Legislators should take initiatives to eliminate malnutrition in tea garden.
13. Trade union, welfare officer and welfare office have to perform a significant role to ensure the welfare rights.
14. Bargaining agent should be more than one and educated also.
15. In respect of human rights, present children are the tea laborer of tomorrow, practice should be abolished.
16. Motivational programs arrangement in time basis is needed to increase efficiency and productivity so that management can consider the existing welfare pattern.
17. Tort Law practice should be used to give solution of various problem in the garden. Though the tea plantation laborer is different in nature, a separate law relating to their welfare measures and man power to implementation is needed which ensure the rights of welfare.

## **7.2 Concluding Remarks**

This research is based on qualitative method. The tea plantation laborer isn't simply poor. They may be especially disadvantaged marginalized section in the country. They have restrained scopes to combine with the people of the majority and faces splendid problem in exploring livelihood alternatives outdoor the tea gardens which is amount of modern slavery. In order to develop the living conditions of the employees, the joint undertaking of private and the general public is required. However, it is ideal that, government of Bangladesh has declared of a digital Bangladesh which is meant put off social discrimination. If the government takes initiatives according to this research solve the troubles located, the situations of the tea laborer ought to be progressed with a purpose to beforehand as well as with the vow.

## **6.3 Future research direction**

This study has examined, tea laborers welfare rights violation and effect of non-implementation. Future research may also be carried out to explore the political barrier of non-implementation of labor rights or assessment of recent 145 taka daily wages considering with the current high pricing of market system.

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