

In Quest of a Legal Framework for Domestic Workers in Bangladesh

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Abstract

Bangladeshi domestic workers suffer from lack of legal protection. There are a lot of laws, but none can ensure the rights of the domestic workers separately. Albeit, the Constitution of the People's Republic of Bangladesh guaranteed some rights of the domestic workers impliedly. However, domestic workers can seek redress under ordinary civil and criminal laws of Bangladesh. Nonetheless, they need some sort of special treatment, because they work in private place and in more vulnerable situation. In addition, the nature of their work is quite different from other traditional work sectors. There is no provision for their working hours, leave, minimum wages, holiday, maternity benefits etc. Though the ILO Convention No 189 has been adopted to ensure the rights of the domestic workers but Bangladesh is not a state party to the convention. Hence they need a new piece of legislation to protect their employment rights. This research paper aims to find out the lacunas of existing laws of Bangladesh and recommend to enact a new law in this regard.

I. INTRODUCTION

Most of the Bangladeshi middle class families are very familiar with domestic worker, though they do not recognize them as “worker” and do not recognize their rights to get minimum wages, allowances, fixed working hours, leave, bonus, weekly holiday, maternity benefits etc. As a result, they do not get any leave during any festival period and usually work until midnight. In addition, the existing labour laws of Bangladesh also deny their rights and do not include them as worker.¹ Consequently, this community becomes vulnerable and disenfranchised and they do not have ways to ventilate the injustices.² Further, they do not have any practical and effectual legal means to enforce their rights.

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¹ Bangladesh Labour (Amendment) Act 2013, s. (1)(4).

² Adams, Kathleen, “Home & Hegemony: Domestic Service and Identity Politics in South and Southeast Asia,” *University of Michigan Press*, 2000, Michigan.

For the legislators and other stakeholders, domestic workers are not in the agenda because of their powerlessness.³ This research paper is aimed to explore the reasons behind the vulnerability of the domestic workers in Bangladesh and to find out the loopholes in existing law along with some suggestions to change the situation.

A. Legal Definition of Domestic Worker

The term “Domestic Worker” is very recent trend to recognize them as worker. Formerly they were known as servant, housemate, helping hand etc. However, formally The Domestic Workers Convention 2011 (Convention No. 189 of ILO) first recognizes domestic work as “work” and persons engaged in this sort of work as domestic worker and also introduce a set of rights for these workers. According to the Convention No. 189 (Decent Work for Domestic Workers), work performed in or for a household or households is domestic work and any person engaged in domestic work within an employment relationship is domestic worker.

This work may comprise cleaning house, cooking, washing and ironing clothes, taking care of children or elderly or sick members of a family, gardening, guarding the house, driving and even taking care of domestic pets. A domestic worker may work on full-time or part-time basis; may be employed by a single household or by multiple employers; may be residing in the household of the employer (live-in worker) or may be living in his or her own residence (live-out). A domestic worker may be working in a country of which she/he is not a national.⁴ A large number of men also work in this sector i.e. as gardeners, drivers or butlers. However, it remains a highly feminized sector. However, domestic work and worker has the following features:

- a) The workplace is a private home;
- b) The work performed has to do with servicing the household;
- c) The work is carried out on behalf of the direct employer;
- d) The work performed must be done on a regular basis and in a continuous manner;
- e) The employer shall not derive any pecuniary gain from the activity done by the domestic worker and
- f) The work is performed in return for remuneration, either in cash and/or in any kind.

The employer of a domestic worker may be a member of the household for which the work is performed or an agency or enterprise that employs domestic workers and makes them available to households. Nevertheless, the nature of domestic work is different from other traditional industrial work.⁵ Hence, they require special treatment and special law to protect their rights as worker.

³ Anderson, Bridget, “*Doing the Dirty Work: the Global Politics of Domestic Labour*,” Zed Books, 2000, London.

⁴ Convention No. 189.

⁵ Ismail Hossain,, “*Structural Adjustment: Policies and Labour Market in Bangladesh*,” CIRDAP, 1998, Dhaka.

II. CONSTITUTIONAL SAFEGUARDS FOR DOMESTIC WORKERS IN BANGLADESH

The Constitution of the People's Republic of Bangladesh is the solemn expression of will of the common people of Bangladesh.⁶ They achieved this golden piece of Bill of Rights through the great freedom fight in 1971 and they paid an ocean of blood for this. This is a Constitution adopted, enacted and given by the people for themselves.⁷ Thus, the constitutional spirit authorizes that the rights of the neglected sections of the society are guaranteed, including those of the domestic workers.

Bangladesh has four guiding principles in its Constitution. One of the four guiding principles of the Constitution is socialism meaning economic and social justice⁸ which imposes an obligation on the shoulder of the State to uphold the rights of the deprived sections of people of the country. Chapter II of the Constitution ensures development of the position of marginal and deprived people, like domestic worker, which are the guiding principles as well as fundamental principles of state policy of Bangladesh. Some of these relevant principles are:

- 1) Fundamental human rights and freedoms and respect for dignity of the human beings.⁹
- 2) The State is responsible to emancipate the toiling masses, the peasants and workers, and backward sections of the people from all forms of exploitation.¹⁰
- 3) The State responsibility to ensure the provision of basic necessities, right to work at reasonable wages, right to reasonable rest, recreation and leisure and right to social security.¹¹
- 4) Free and compulsory education for the inhabitants of Bangladesh.¹²
- 5) Work is a right, a duty and a matter of honour for every citizen.¹³

Everybody shall be paid for his work on the basis of the principle 'from each according to his abilities, to each according to his work'.¹⁴ It further says that the State shall endeavour to create conditions in which human labour in every form, intellectual and physical, shall become a fuller expression of creative endeavour and of the human personality.

Albeit these principles are not judicially enforceable in the court of law as per the provision of the Constitution.¹⁵ However, these principles shall be fundamental to the governance of Bangladesh, shall be applied by the State in making of laws, shall be a

⁶ Mahmudul Islam, "*Constitutional Law of Bangladesh*," 2nd ed., Mullick Brothers, 2010, Dhaka.

⁷ Preamble of the Constitution of the People's Republic of Bangladesh.

⁸ Preamble & Art. 8 of the Constitution of Bangladesh.

⁹ Article 11 of the Constitution of Bangladesh.

¹⁰ Art. 14 of the Constitution of Bangladesh.

¹¹ Art. 15 of the Constitution of Bangladesh.

¹² Art. 17 of the Constitution of Bangladesh.

¹³ Art. 20 of the Constitution of Bangladesh.

¹⁴ Anker, Richard, "*Gender and Jobs*," International Labour Office, 1998, Geneva.

¹⁵ *Dr. Mohiuddin Farooque v. Bangladesh* [1997] 49 DLR (AD) 1 and Arts. 8-25 of the Constitution of Bangladesh.

guide to the interpretation of the Constitution and of the other laws of Bangladesh and shall form the basis of the work of the State and its citizens.¹⁶

Further, part III of the Constitution provides fundamental rights, which are judicially enforceable and guaranteed by the Constitution itself. These rights are enforceable by the High Court Division of the Supreme Court of Bangladesh under its Writ (Judicial Review) jurisdiction.¹⁷ As a citizen of Bangladesh all domestic workers are entitled to enjoy all these following fundamental rights:

- 1) Article 27 declares that all citizens are equal before the law and are entitled to equal protection of law.
- 2) Article 28 enumerates that the State shall not discriminate against any citizen on grounds of religion, race, caste, sex or place of birth. Women shall have equal rights with men in all fields of the State. However, it further states that nothing shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens. Hence, the Constitution undoubtedly permits statutes approving affirmative action for backward sections of citizens like domestic workers.
- 3) Article 31 states that no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with the law.
- 4) Article 34 prohibits all forms of forced labour.
- 5) Article 38 says that every citizen shall have the right to form associations or unions.

In case of violation of any of the above mentioned fundamental rights, which are to be interpreted in the light of the preamble and the fundamental principles, the aggrieved person can file a writ petition before the High Court Division.¹⁸ Apart from the fundamental rights guaranteed under the Constitution, every person has other legal rights recognized by various statutes. The High Court Division may also take steps *suo moto* for legal rights violated by the government if there is no other equally efficacious remedy. Public interest litigation in Bangladesh has grown, and now any person can move the court representing the interests of the underprivileged or the under-represented.

III. PROTECTION ENSURED BY ORDINARY LAWS OF BANGLADESH

Aside from the Constitution, there are few ordinary laws, which can protect the rights of domestic workers as an ordinary citizen of Bangladesh. However, there is no single special law in Bangladesh which deals with domestic worker exclusively except the Domestic Servants' Registration Ordinance 1961.

A. The Domestic Servants' Registration Ordinance 1961

The only statute in Bangladesh directly dealing with domestic workers is the Domestic Servants' Registration Ordinance 1961. The purpose of this Ordinance appears clear from

¹⁶ Mahmudul Islam, "Constitutional Law of Bangladesh," 2nd ed., Mullick Brothers, 2010, Dhaka.

¹⁷ Arts. 44 & 102 of the Constitution of Bangladesh.

¹⁸ Art. 44 of the Constitution of Bangladesh.

its title, it is to oblige domestic workers to register with the police. The Act says that if a domestic worker fails to register with the police station, he shall be punished with simple imprisonment which may extend to one month or with fine which may extend to 100 taka or with both.¹⁹ It is interesting that this Ordinance was made applicable for only five police stations of the Dhaka metropolitan area. Apart from registration, this Act comprising of only nine sections, do not touch any other aspect. Apparently, the purpose of the statute of 1961 was not to improve the fate of domestic workers, but to assist employers to find domestic workers in case they commit any offence and run away. Even in the area of its jurisdiction, the five police stations, the Act is not implemented and the domestic workers do not actually register with the police.

Beside this, the definitions provided by this law needs to be extended. This definition does not attempt to define “household affairs” and thus can be interpreted in a very wide sense including guards, gardeners, vehicle drivers etc.²⁰ Albeit, the entire informal sector cannot be included in the legal discourse relating to domestic workers, many categories not commonly regarded as domestic workers should be included in the definition so that legal protection can be given.²¹ Apparently, the identifying criteria should not be working in ‘household’ but ‘working in a household or doing similar works’.²² Again, presence of ‘wages’ should not be an identifying factor at all. The most important criteria should be whether she is working for her own family or for someone else.

B. The Labour Act 2006

Formerly the labour laws of Bangladesh consisted of various statutes, each dealing with one or more aspects. However, the Labour Act 2006 repealed most of the earlier statutes and modified some others.²³ Now this single statute provides almost entire labour law related provisions applicable in Bangladesh. Nonetheless, the Labour Act excludes domestic workers from its ambit. Section 1(4)(o) expressly provides that the law shall not be applicable to domestic servants. The implication of this provision is very clear.²⁴ Domestic workers cannot claim any of the rights guaranteed under the Act of 2006.

Furthermore, there is no scope for them to go to the labour courts, which is established exclusively for labour matters. It is very interesting to note that in certain cases, the Act of 2006 actually goes backwards. For example the Minimum Wages Ordinance 1961²⁵ included domestic workers within its definition of workers and as such their minimum wages could be fixed through the mechanism provided by the Ordinance. The Act of 2006 has repealed this Ordinance and incorporated the provisions of the Ordinance of 1961

¹⁹ Section 5.

²⁰ Section 2(a).

²¹ Selim Jahan, “*Domestic Service Labour Force: The Bangladesh Perspective*,” Institute for Law and Development, 1991, Dhaka.

²² Dr. Ahmed Naim, “*Safeguarding the Rights of Domestic Workers: Existing Laws and Ways to Move Forward*,” Democracywatch and International Labour Organization, 2009, Dhaka.

²³ Section 353.

²⁴ Jan Breman, “A Dualistic Labour System? A Critique of the ‘Informal Sector,’” *Economic and Political Weekly*, 1976, Vol. 11, No. 48, Pp. 1870-1876.

²⁵ Ordinance No. XXXIV of 1961 (Bangladesh).

in Chapter 11 including formation and functions of a Minimum Wage Board. Similarly, the Children (Pledging of Labour) Act 1933²⁶ provided that all agreements to pledge the labour of children were void. This was also repealed by the Act of 2006 without making any alternative for the domestic workers.²⁷

C. *The Prevention of Suppression Against Women and Children Act 2000*

The Prevention of Suppression Against Women and Children Act 2000 promulgates to take stringent measures against crimes oppressing women and children.²⁸ Many of the provisions of this statute deal with issues that are relevant for domestic workers, for examples section 4 deals with death, attempt to murder, grievous hurt or mutilation by using corrosive, incendiary or poisonous substances (especially throwing of acid); section 5 deals with trafficking of women for prostitution and allied matters; section 6 provides for trafficking and stealing of children; section 7 deals with kidnapping and abduction of women and children; section 9 deals with rape and section 9A covers situations where women are led to suicide because of acts of others; section 13 provides for children born after rape; and section 14 protects privacy of women and children from media exposure.

The punishments for the crimes defined under the Act are very stringent. The Act establishes a tribunal to effectively adjudicate these matters and provides for detailed procedures. Although the Act of 2000 covers many aspects relevant for domestic workers, it was promulgated to safeguard women and children in general and no specific attention is given specifically to the domestic workers.

D. *The Children Act 2013*

The Children Act 2013 is the major legislation that aims to protect children. This statute provides for the creation of juvenile courts and a separate system of trial for children. It provides for probation officers, establishment and operation of certified institutions for offender children, protection of their privacy, their custody during and after trial etc. The court may also issue a warrant to search for a child. Since a considerable portion of the domestic workers are children, the Act is very relevant in safeguarding their rights and interests.

Section 34 of the Act has special relevance as it provides for penalty when a child is assaulted, ill-treated or neglected by a person having charge or care of the child. The remedy, being imprisonment for two years and/or fine not exceeding taka one thousand, however is very minimal. However, section 44 provides that if a person secures a child ostensibly for the purpose of menial labour in a factory or other establishment, but in fact

²⁶ Act No. II of 1933 (Bangladesh).

²⁷ Section 35 of the Act of 2006 incorporates the provisions of the Act of 1933 for children who are not domestic workers.

²⁸ Faruque, Dr. Abdullah Al. “*Analysis of Decisions of the Higher Judiciary on Protection of Women’s Rights in Bangladesh*,” National Human Rights Commission of Bangladesh, 2013, Dhaka.

exploits the child for his own ends, withholds or lives on his earnings, shall be punishable with fine which may extend to one thousand taka. These provisions, if properly followed, can be used by any conscious citizen to save child domestic workers from torture and abuse even when the child's natural parents are absent or silent.

E. The Penal Code 1860

Any act that has been defined by law as a crime is punishable by the courts of law. Apart from the Penal Code 1860, many other laws define criminal acts in Bangladesh. All criminal acts are adjudicated by criminal courts²⁹ and the domestic workers, like any other citizen, are under the jurisdiction of the criminal courts. Under the Penal Code, especially relevant for the domestic workers are culpable homicide,³⁰ murder,³¹ hurt,³² grievous hurt,³³ wrongful restraint,³⁴ wrongful confinement,³⁵ assault,³⁶ kidnapping,³⁷ abduction,³⁸ rape,³⁹ and theft.⁴⁰ These and many other provisions of criminal law apply to domestic workers in the same way in which they apply to other citizens. There is however no statute that specifically deals with domestic workers and declares an act to be a criminal act considering the special circumstances of the domestic workers.

F. The Domestic Violence (Prevention & Protection) Act 2010

Recently enacted the Domestic Violence (Prevention & Protection) Act 2010 does not cover domestic workers under the purview of the said law. In accordance with the provision of this law, only a female & child family member can get protection under this Act. Hence, an unknown domestic worker who is not a member of her employer's family cannot take shelter under this law to prevent abuse against her.

G. The Contract Act 1872

Whenever a domestic worker starts to work in a household, there is an agreement between the employer and the worker. This agreement is almost oral. Yet it cannot be ignored that there is an understanding between the parties. The most important term of the understanding is often the amount of money the worker will get at the end of the

²⁹ Alhaj Zahirul Huq, "Penal Code," 5th ed., 2010, Anupam Gyan Bhandar, 2010, Dhaka.

³⁰ Section 299.

³¹ Section 300.

³² Section 319.

³³ Section 320.

³⁴ Section 339.

³⁵ Section 340.

³⁶ Section 351.

³⁷ Section 359.

³⁸ Section 362.

³⁹ Section 375.

⁴⁰ Section 378.

month as salary.⁴¹ There may be other terms such as how many times she can take a vacation to visit her village home, how many times she will be given new clothes by the employer etc. Accordingly, even if not formal, written or exhaustive, the parties enter into an agreement. This agreement is enforceable under the Contract Act, 1872. This is also a service contract.

The relationship between the domestic worker and his/her employer is one of “master-servant” relationship.⁴² Under this relationship, the employer is always the dominant partner and can impose unfavourable terms. But as long as the employer follows the terms agreed between the parties, the worker cannot protest. The employer however has certain limitations under the established legal principles.⁴³ For example, he cannot violate the fundamental right of a worker even when the worker agrees to surrender the right. Again, a worker cannot be dismissed on ground of any default unless given an opportunity of fair hearing. It follows that in case of any violation of the service contract, or any injury sustained by the worker, a case of compensation can be filed before the civil courts. The civil courts also have power to issue directions and declare any action taken by an employer to be illegal. The legal provisions are thus not ambiguous.

But the problem lies in implementing these provisions since it depends upon each individual contract between the employer and the domestic worker. Domestic workers are mostly illiterate and unaware of their legal rights. Further, it is very difficult for them to enforce their rights through legal proceeding. On the other hand, the employer stands on a strong footing where he/she has the means to appoint expert lawyer to defeat the poor worker. Hence, the domestic workers need legal literacy and free legal aid to battle against their giant lords.

H. The National Child Labour Elimination Policy 2010

The definition of ‘child’ differs between one statute and another and a clear definition of the terms ‘child labour’ or ‘child labourers’ are not found anywhere.⁴⁴ In these circumstances, the age-based definitions of child and adolescents as given in the Bangladesh Labour Act, 2006 are followed in every discussion relating to child labour. According to the definition, work performed by a child will be considered as child labour but the term ‘child labourer’ should not be used here rather he may be termed as a child engaged in labour. The policy advocates a friendly world for the children engaged in work and provides a standard framework concerning education, health, working environment, specific working conditions, recreation, treatment, security, social awareness building for managing and reducing risks of child abuse by employers etc.⁴⁵

⁴¹ Philippa Smales, “*The Right to Unite: A Handbook on Domestic Worker Rights across Asia*,” Asia Pacific Forum on Women, Law and Development (APWLD).

⁴² Siddiqui, K., “*Better Days, Better Lives*,” 1st ed., The University Press Limited, 2001, Dhaka.

⁴³ Selim, Nadia, “*Domestic Service in Bangladesh: A Case Study in Dhaka*,” Expressions Ltd., 2009, Dhaka.

⁴⁴ Maria, Amparita S. Sta., “Study on the Legal Protection of Child Domestic Workers in the Asia-Pacific,” *International Labour Office*.

⁴⁵ Living Inside Room Outside Law: A Study on Child Domestic Worker and the Role of Govt. and Civil Society, *ASK and Save the Children*, 2010, Dhaka.

Matters concerning children are regulated by the Ministry of Women and Children Affairs and labour related issues are by the Ministry of Labour and Employment. But no ministry is wholly authorised to administer the child labour issues.⁴⁶ That is why the policy articulates recommendation for giving the entire responsibility of supervising every issue concerning child labour to the Ministry of Labour and Employment as a focal Ministry. A Child Labour Unit is also suggested for coordinating all the activities that are mentioned in the Policy of 2010. Furthermore, the policy points out that a National Child Labour Welfare Council can also be created by the experts in child labour studies whose duty will be to observe the circumstances of child labour at national and international level with a view to making recommendations to the government.

Therefore, different statutes of Bangladesh have defined children differently according to the different labour sectors, though the National Child Labour Elimination Policy 2010 has made the age of child labour specific. In fact, the above provisions of different Acts do not prohibit child labour rather insert provisions for the employment of children. The reason behind this may be that if child labour is absolutely forbidden, that will severely affect children and their families who depend on the income of children and children may be involved with more exploitative informal activities (which do not come under the purview of the above Acts).⁴⁷ So child labour cannot be eliminated from the society totally as yet.⁴⁸ That is why steps should be taken to decrease it gradually.⁴⁹ In this case the laws regarding child labour should be more child-friendly.⁵⁰

IV. PROTECTION ENSURED BY THE JUDGMENT OF THE SUPREME COURT OF BANGLADESH

Domestic workers are the most disadvantaged and deprived segments of society in Bangladesh. In particular, child and female domestic workers are often abused and subjected to torture and other forms of inhuman treatment. *Bangladesh National Women Lawyers Association (BNWLA) Vs. Govt. of Bangladesh*⁵¹ is the first judicial pronouncement to investigate the legality of such practices in Bangladesh. This Public Interest Litigation (PIL) had been filed in view of a news item published in a national daily newspaper of Bangladesh on the abuse of domestic workers and numerous other examples of violence inflicted upon domestic workers, in particular child and female domestic workers.

⁴⁶ Aktar, Sharmin and Abdullah, Abu Syead Muhammed, "Protecting Child Labour in Bangladesh: Domestic Laws Versus International Instruments," *Bangladesh e-Journal of Sociology*, January 2013, Vol-10, No. 01, Dhaka.

⁴⁷ Khair, Sumaiya, "Limiting Child Labour: The Impact of Protective Legislation in Bangladesh," *The Dhaka University Studies, Part-F*, 1996, Vol. 7, No. 1, Dhaka.

⁴⁸ Rahman, G. Shamsur, "Laws Relating to Children in Bangladesh," *Bangladesh Shishu (Children) Academy*, 1994, Dhaka.

⁴⁹ Rahman, M., "Child Labour and Human Rights: Bangladesh Perspective," *The Dhaka University Studies, Part-F*, 1994, Vol. 5, No. 1, Dhaka.

⁵⁰ Vittachi, A., "Stolen Childhood: In Search of the Rights of the Child," Polity Press in Association with North-South Productions and Channel Four, 1989, Cambridge.

⁵¹ Writ petition no. 3598 of 2010.

It was submitted by the petitioner that the children and women, who were engaged as domestic help, found themselves in a helpless situation being far away from home and no one to turn to in times of need. There is no record maintained by anyone with regard to the women and children employed in the domestic sector and it so happens on many occasions that even the family members of the children are unable to trace their whereabouts until it is too late. The government should take steps so that the employment of women and children in the domestic sector may be monitored and their rights as worker projected in accordance with the Constitution and the law of the land. They are subjected to inhuman torture sometimes leading to death and at other times leading to suicide.

It is also a fact that female domestic workers, in particular, are subjected to physical as well as sexual abuse. In many cases, action is taken against the employers by filing cases with the police station, but the police are reluctant to record any case against the perpetrators, particularly since they are well-to-do and influential persons. It should be noteworthy that the definition of worker under the Bangladesh Labour (Amendment) Act, 2013 does not include anyone engaged in work as a domestic worker. The National Child Labour Elimination Policy, 2010 also does not clearly show up to what age a child would be totally prohibited from working. The policy shows that children under the age of 14 years shall not be employed in regular work.

The court highlighted that such a situation should not be allowed to continue and it is unfortunate that such service has not been recognized as such and finds no place in the labour laws. The court suggested that the beneficial provisions outlined in the three policy documents namely, Domestic Worker Protection and Welfare Policy 2010 (Draft), National Child Labour Elimination Policy, 2010 and the Children Policy 2011 must be brought into effect at once so that the benefits of the provisions of those policies may be given to the domestic workers. It was also suggested by the court that children between the ages of 14 to 18, who are engaged in the domestic sector, should be incorporated automatically within the provisions of the Labour Act. There should be a system of registration and monitoring of all persons engaged in domestic work. In the above facts and circumstances, the court issued the following directions to the government:

1. In order to make the provision and concept of compulsory primary education to be meaningful, we direct the government to take immediate steps to prohibit employment of children up to the age of 12 from any type of employment, including employment in the domestic sector, particularly with the view to ensuring that children up to the age of 12 attend school and obtain the basic education which is necessary as a foundation for their future life.
2. Education/training of domestic workers aged between 13 and 18 must be ensured by the employers either by allowing them to attend educational or vocational training institutes or by alternative domestic arrangements suitable to the concerned worker.
3. The government should implement the provisions mentioned in the National Child Labour Elimination Policy 2010 and establish a focal Ministry/focal point, Child Labour Unit and National Child Labour Welfare Council in order to ensure implementation of the policies as mentioned in the Policy of 2010.

4. The government should include domestic workers within the definition of “worker” in the Bangladesh Labour Act, 2006 and also to implement all the beneficial provisions of the draft Domestic Worker Protection and Welfare Policy 2010 as announced by the government.
5. The cases relating to violence upon domestic workers must be monitored and prosecution of the perpetrators must be ensured by the government. The government has a duty to protect all citizens of Bangladesh, be they rich or poor. It must not be forgotten that the domestic workers come from poverty- stricken backgrounds and deserve all the more protection from the government and the authorities set up by the government.
6. In order to prevent trafficking, in particular, and also to monitor the movement of young children from the villages to the urban areas, parents must be required to register at the local Union *Parishad* the name and address of the person to whom the child is being sent for the purpose of employment. The Chairman of the Union *Parishad* must be required to maintain a register with the details of any children of his Union who are sent away from the locality for the purpose of being engaged in any employment. If any middleman is involved, then his/her name and other details must be entered in the register.
7. Government is directed to ensure mandatory registration of all domestic workers by all employers engaging in their household any child or other domestic worker and to maintain an effective system through the respective local government units such as *Pourashava* or Municipal Corporations in all towns and cities for tracking down each and every change of employment or transfer of all the registered domestic workers from one household to another.
8. Government should take steps to promulgate law making it mandatory for employers to ensure health check up of domestic workers at least once in every two months.
9. The legal framework must be strengthened in order to ensure all the benefits of regulated working hours, rest, recreation, home-visits, salary etc. of all domestic workers.
10. Laws must also ensure proper medical treatment and compensation by the employers for all domestic workers, who suffer any illness, injury or fatality during the course of their employment or as a result of it.

V. PROPOSED LEGISLATION ON THE REGISTRATION AND PROTECTION OF THE DOMESTIC WORKERS IN BANGLADESH

Leading human rights NGO *Ain O Shalish Kendro* (ASK) has drafted a law on domestic workers in 2012 titled the Domestic Workers’ Registration and Protection Act 2012 and submitted it to the Ministry of Labour & Employment for enactment. However, till now there is no visible sign to enact the said law. The objects of the ASK proposed law are:

- To uphold the constitutional guarantee to ensure dignity of labour;
- To bring all domestic workers within a legal frame work;

- Make provisions for proper documentation of employment of domestic workers; and
- To substitute the existing discriminatory law (the Domestic Servants' Registration Ordinance 1961)

The Act mostly contains the provisions and procedure for registration of domestic workers; the whole scheme of the Act is so devised that the registration along with other provisions of the Act will ensure protection of the domestic workers; issues like assault, torture and other forms of violence against domestic workers can be addressed by the existing legislations such as the Suppression Against Women and Children Act 2000, and the Penal Code 1860; and the Act is not intended to contain penal provisions; rather it would be a regulatory law.

The proposed law also suggests procedure to register domestic workers such as: employer to register employment of domestic worker within 10 working days. Section 2 of the proposed Domestic Workers' Registration and Protection Act, 2012 defines "Domestic Worker" & "Child Domestic Worker" as follows: "**Domestic worker**" is defined as any person who is employed for household works in consideration of wages or any other benefit. "**Juvenile domestic worker**" as any domestic worker within the age of 12-18 years and '**child domestic worker**' as any domestic worker below the age of 12 years.

VI. RECOMMENDATIONS

To protect the rights of the domestic workers there need to be in place a sound and functioning institutional framework that will ensure the legal provisions and policies are observed as well as enforced properly and actions will be taken to protect the domestic workers if the Bill of Rights for Domestic Workers are violated and the guilty will be punished accordingly. A district unit needs to be formed to help domestic workers under the Ministry of Social Welfare which would take the lead in passing laws, overseeing its enforcement and acting as a platform where all the relevant actors i.e. community organizations, NGOs, private sector, bilateral and multilateral donors can mobilize their agenda, resources and actions.

In addition, sufficient help centers should be established in different parts of the country where domestic servants can seek help in cases of cruelty, violence and a violation of their bill of rights. The existence of these help centers should be made widely known. The centers should also be easily accessible by having extended hours of operations. Furthermore, they should be equipped with minimum medical facilities, including counseling, to deal with extreme situations of violence and cruelty. These centers will also provide social interaction so that live-in maids can come to simply socialize and meet others in order to alleviate their isolation. Workers from these centers should have the power from the government to visit employers' houses, particularly where children are employed. For extreme cases where domestics are locked up and cannot access these centers, a hot-line system should be in place.

Alongside these help centers and telephone hotlines, a department under the law enforcement agencies should be established that would be geared towards solely focusing on investigating cases of violation of bills of rights for domestic workers, particularly for

cruelty and violence against them. This department should make sure that the training of police be more sensitive to cases of domestic workers and engage women police officers in such cases who may be more sensitive to cruelty and violence to domestic workers. In cases of the violation of the bill of rights for domestic workers, their contracts and violence, a domestic workers' special court should be created. More government funding and official support should be given to the existing drop in schools for child workers operated by private NGOs.

All the policy measures mentioned above would need widespread public and policy advocacy. Public advocacy is generally led by civil society. But in the area of policy advocacy, the proposed unit on domestic help under the Ministry of Social Welfare can interact with parliamentarians and convince them about the need for legal and institutional frameworks such that the politicians give the political support needed in parliament to get all the policy measures passed. The Ministry can also work towards creating alliance among the private and public entities working in public advocacy and generate social awareness.

VII. CONCLUSION

A special piece of legislation for the domestic workers could be a proper solution to uphold their rights. Albeit, mere enactment of a new law may not be able to bring changes over night, if we do not change our mind set. More humanitarian approach towards the domestic workers can ensure more contentment in the mind of them.

The Government of Bangladesh should take initiatives immediately for appropriate legal reforms and other necessary actions to implement the above mentioned recommendations. However, the current governance deficit in Bangladesh has further aggravated the situation because the duty bearers such as lawmakers, executives, police, and government officials remain insensitive to domestic workers' rights. It is noteworthy to mention that the Government is committed to protect the citizens but it lacks depth of understanding and consistent planning. That is why action at the national level is needed now, as timely steps can only bring positive impact towards domestic labourer from all tiers of the society. But in case of taking action in full conformity with reality, all the factors such as, economic, social, political, cultural have to be taken into consideration.

Further initiatives have to be taken at first to keep child domestic workers away from exploitative and dangerous works and to provide all of them appointment letter, identity card and other necessary things to ensure the payment of their wages and other rights as workers. Apart from these, Governmental bodies should ensure all rights of domestic workers like other workers.

However, Bangladesh is obliged under both national and international law to protect and promote the rights and interests of the domestic workers. The Constitution of the People's Republic of Bangladesh guarantees basic and fundamental human rights. These rights are the guiding principles for formulating policies and laws relating to domestic workers. Bangladesh will have to be a signatory State of the ILO C189 very soon, so then these initiatives will be widespread and the affluent, elite countries and international organizations will come forward to help the government and NGOs, not only in case of financial assistance but also in the actual performance of the field level work.

