

An Alternative Report to the Fifth State Party Periodic Report to UNCRC

State Party: Government of the
People's Republic of Bangladesh

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PART I: GENERAL OVERVIEW AND INTRODUCTION

Background and Context

Bangladesh had shown its highest commitment towards rights of the children through becoming one of the few frontrunner states to ratify the United Nations Convention on the Rights of the Child (UNCRC) in August 1990. The Constitution of Bangladesh has also laid down the principles, including of affirmative action for promotion and protection of rights of the children and others through Articles: 27, 28 and 31. Article 28(4) of the Bangladesh Constitution declares '*Nothing shall prevent the State for making special provision for women and children, or for the advancement of any backward sections of Citizen*'. Bangladesh has also shown considerably better performance in fulfilling its reporting obligation under the UNCRC. It has submitted the initial report in November 1995 and a supplementary report in December 1996. The second Periodic Report was submitted in December 2000, the combined Third and Fourth Periodic Report in 2007 and the Fifth Periodic Report in October 2012.

Objective of the Alternative Report

This report provides an account of the present status on implementation of Child Rights Convention and its Optional Protocols in Bangladesh. It gives a critical assessment of the Fifth Periodic Report submitted by the Government of the People's Republic of Bangladesh in October 2012 in light of the Concluding Observations in 2009 and General Comments made by the UN Committee on the Rights of the Child (Committee). This Alternative Report places further recommendations for the Committee to be made to the Government of Bangladesh (The GoB) to improve the situation of Child Rights in Bangladesh since the Concluding Observations.

Methodology

This report has been prepared by the Child Rights Advocacy Coalition in Bangladesh (Coalition), an alliance of national NGOs, networks and INGOs (See ***Annex 1: List of the member organizations***). It draws upon a series of national consultations held in September 2014 and on the publications, documentation and experience of the coalition members. This Alternative Report refers to the continuities of law and practice impacting on child rights with a particular focus on incidents as well as trends of concern observed since the last consideration of the Third and Fourth Periodic Report in 2008. This Alternative Report also compares the reality on the ground with delivery and claims by the GoB made in their Fifth Periodic Report with regard to the promotion and protection of rights of the children and draws specific recommendations to that end.

Organization of the Alternative Report

This Alternative Report has been divided into three parts, each of which comprises several sub-sections. *Part One*, which sets the stage of preparing this Alternative Report, has also provided the background and rationale of preparing such a report and the methodology followed to gather information and furnish contents of the report. *Part Two* highlighted previous recommendations of the Committee and analyzed the situation of implementation of UNCRC in Bangladesh through furnishing it in line with the Fifth Periodic Report. Finally, in *Part Three* necessary recommendations have been presented for the consideration of the Committee.

PART II: IMPLEMENTATION OF THE UNCRC IN BANGLADESH

This section has been developed as per sub-clusters maintained by the Committee. In this section, the **Concluding Observations of 2009** of the Committee were revisited reading it together with the combined Third and Fourth Periodic Report of 2008. The ground situation has been analyzed with a critical assessment of the Fifth Periodic Report of 2012.

1. General measures of implementation (Articles 4, 42, 44.6)

1.1 *Withdrawal of the reservations*

In response to the argument made by Government of Bangladesh (The GoB) in its combined **Third and Fourth Periodic Report**, that it was not possible to withdraw the reservation to Article 14 (1) and 21 as that contradicts the Personal Law of the majority population¹, the Committee in its **Concluding Observations** in 2009 expressed regret for this argument and recommended that the GoB **'accelerate its review process regarding the removal of the reservations to articles 14 (1) and 21.'**²

However, yet after almost five years, in its Fifth Periodic Report, the GoB has not made any specific commitment with regard to the withdrawal of reservations. The **Fifth Periodic Report**, reads- *'The GoB has reviewed the observation of the CRC Committee thoroughly with regard to the withdrawal of the reservations to article 14 and article 21 of the CRC. However, there is not yet a final decision of the government about the withdrawal of the reservations.'* Additionally, the GoB report has argued that Articles 39 (1) and 41 (1) of Bangladesh Constitution have recognized the right to freedom of thought, conscience and religion to every citizen of the country and the Guardian and Wards Act, 1890 has already addressed the purpose of Article 21 of CRC (adoption) through exhaustive legal process and *'therefore, the State party believes that even without withdrawing its reservation to article 21, the purpose can be served under the existing domestic laws.'*

The coalition expresses its dissatisfaction that the GoB has not only failed to mention any effort to accelerate the process of removal of reservations in line with the recommendation made by Committee, but has also backtracked from its previous commitment of keeping it under consideration. The GoB argues that existing domestic legislation addresses the rights covered by Article 21. This reflects the GoB position which is not in full agreement with the text and meaning of Article 21, which is regrettable. The Fifth Periodic Report indicates that the GoB has no specific plan and even does not have the intention to consider withdrawal of reservations.

1.2 *Legislative Measures*

With regard to harmonizing national legislation, in the **Concluding Observations**, the Committee recommended that **'the State party continue to harmonize its legislation** with the principles and provisions of the Convention and incorporate the Convention into domestic legislation, ensuring that the Convention can be invoked as a legal basis by individuals and judges at all levels of administrative and judicial proceedings. The Committee also recommended to **revise the 1974 Children's Act** to cover all rights of the child and encouraged the State party to **carry out an impact assessment of how new laws affect children.**³

In the **Fifth Periodic Report**, the GoB stated that all laws related to child rights have been reviewed and several laws have been revised including the Children Act, 1974. The Fifth Periodic Report listed several new laws and policies that have been enacted, like the Prevention of Domestic Violence Act, 2010, Vagrancy Act, 2011, Anti-trafficking Act, 2012, Pornography Control Act, 2012, National Children Policy 2011, National Child Labour Elimination Policy, National Education Policy 2010 etc.

The Coalition notes that, in the Fifth Periodic Report, the GoB has not mentioned anything about the impact assessment of how new laws affect children as recommended by the Committee. Also, the Fifth Periodic

¹ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/446/58/PDF/G0844658.pdf?OpenElement>

² Concluding Observations of the Committee on the Rights of the Child: Bangladesh CRC/C/BGD/CO/4, 26 June 2009. Can be accessed at <http://tb.ohchr.org/default.aspx?country=bd>

³ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/432/48/PDF/G0943248.pdf?OpenElement>

Report states that The GoB has taken vigorous efforts to make the national legislation fully compatible with the Concluding Observations 2009, but has not referred to the concluding observations individually. The Fifth Periodic Report could analyse and elaborate how the new laws and policies address the specific observations made by the Committee.

The main problem in Bangladesh with regard to harmonizing national legislation is the absence of a single agency, solely responsible for adopting all legislative measures and harmonizing domestic laws with the international standards including that of UNCRC. This was evidenced through the complication that arose with regard to amendment of the Children Act 1974. Amendments to the Children Act 1974 were sought from different quarters to ensure its conformity with international standards especially with regard to the definition of child and minimum age of criminal responsibility. The draft prepared to that end by the Ministry of Social Welfare in consultation with different stakeholders and approved by the cabinet was welcomed by different stakeholders.⁴ However, while vetting, the Ministry of Law, Justice and Parliamentary Affairs, Bangladesh made some key changes to that draft which created debate and halted amendment of the Act. The Law Ministry's vetting maintained the definition of the Children Act 1974 i.e. any person below the age of 16 years is a child. Agencies like the Law Commission could play a significant role in harmonizing national legislation with the international standards. However, the Commission is under-resourced and most of the recommendations made by the Commission have failed to get proper attention from the government.⁵

National development strategy and corresponding plans of action for children

In the Fifth Periodic Report, the GoB stated that the Sixth Five Year Plan (SFYP) 2011-15 has appropriately underscored the importance of children's advancement, their rights and has included a separate chapter with specific vision and actions. Setting the vision of 'A World Fit For Children', the SFYP has set a number of goals including that of ensuring children's rights and advancement; providing health services; ensuring the right for food and nutrition; providing opportunities to girl children; protection from all forms of abuse, exploitation and violence; ensuring participation etc.

While appreciating The GoB's effort to provide importance on children's issues in the SFYP, the Coalition notes that the proposed actions to achieve the goals are a set of general commitments without any specific target and plan for impact assessment. It also remains to be seen whether these priorities are retained in the Seventh Five Year Plan, for 2016-2021, which is currently being prepared by the Planning Commission.

In the Fifth Periodic Report, the GoB has mentioned that the National Children's Taskforce (NCTF) has received unwavering support from the Bangladesh Shishu Academy (BSA) and the NCTF has actively consulted with the GoB. While the Coalition appreciates the opportunities for participation of the NCTF in different consultation processes and fora, it can be argued that NCTF's participation was not wholly meaning, and may have been more a tokenistic gesture, as the GoB did not revert back to NCTF with meaningful follow-up or confirmation that their suggestions have been incorporated. It should also be mentioned that the NCTF does not receive any financial support from the GoB, and that the BSA has also serious resource constraints.

1.3 Administrative Measures

In its Fifth Periodic Report, The GoB has mentioned that initiatives have been taken to enhance the human and financial capacity of Ministry of Women and Children Affairs (MOWCA). The Fifth Periodic Report has acknowledged that a separate directorate or wing focusing on children's rights and programs has not yet been established, however it has highlighted the establishment of the National Council for Women and Children Development (NCWCD) as a high level policy and oversight body headed by the Prime Minister. The Fifth Periodic Report also claimed that the District Child Rights Monitoring Committee (DCRMC) has been formed in each district and they are working closely with the NCTF. The Coalition appreciates that in every district

⁴ The Committee on the Rights of the Child suggests it to be not less than 12 years. In Bangladesh it is nine years.

⁵ <http://lawcommissionbangladesh.org/reports.htm>

only one NCTF member has been included in the DCRMC. However, Coalition members' experience shows that DCRMC is not functioning effectively. NCTF members who participated in a sharing meeting on 15 September, 2014 stated that the DCRMC does not hold regular meetings and those meetings need to be better structured to address the urgent cases.

1.4 Budgetary analysis

With regard to budgetary allocations, in its Fifth Periodic Report, the GoB recognized that a pro-child budgeting' framework is yet to be in place but considerable attention has been paid in allocating budget for education, health, nutrition and protection. The GoB has mentioned about the increased budget allocation for the Social Protection Programs (SPP), which include programs for children with disabilities, programs related to hazardous child labour practices and child empowerment programs. The GoB has also stated that budget has been increased for child education and health.

The Coalition takes note of the commitment made by the Finance Minister AMA Muhith on 5 June 2014 during his budget speech that the GoB will implement a separate child budget from FY 2015-16 on a pilot basis, and that BDT 50 crore will be allocated for projects that enhance children's welfare.⁶ While recognizing that the GoB claims that the total budgetary allocation for children has increased, the Coalition is of the position that this is questionable.

A study jointly done by UNICEF and CPD shows that the share of resources devoted to children from the national budget has remained dismally low.⁷ This study estimates that the total budget directly allocated for children, including allocations for children's social safety net programs, amounted to a mere 4.1% of GDP despite the substantial increase of national budget in the recent past. The children's budget share of the total GDP has remained more or less constant over the last few years⁸. The investment in children, especially regarding health, education and social protection, continues to be too low to ensure the full exercise of all rights by all children and the budget does not clearly identify investment in children at all levels. The weak monitoring and accountability mechanisms for budgetary expenditure at different levels of the administration are matters of concern. A recent report⁹ reveals that within the budget of ministries mandated to focus on children's affairs, only a small portion is clearly identifiable as spending for children. Out of the total allocations to Ministry of Women and Children's Affairs (MoWCA), only 10% is clearly identifiable as targeting children for 2013-14. For Ministry of Health and Family Welfare (MHFW), it was 0.63%.

1.5 International assistance and development aid

In the Fifth Periodic Report, the GoB has mentioned that between the period of 2008-2012, a total of \$314.01 million grants have been received from UNICEF. A number of projects under implementation with this funding are listed. However, no impact analysis of these projects has been provided.

The ground reality shows the need for further improvement in several areas; in particular, the GOB needs to conduct a robust and deep analysis, as well as assessment of the impact of several initiatives undertaken by the real life of the children. The GoB should also consider that financing children's programs primarily through foreign aid might not be sustainable. At present, a significant portion of the ADP comes from donors and external sources. As Bangladesh aims to become a middle income country, development aid may no longer be a major source of income.

1.6 Establishment of independent national human rights institution

In the **Concluding Observations of 2009**, the Committee recommended that the GoB ensure **independence of the National Human Rights Commission** in accordance with the Paris Principles; provide it with **adequate human and financial resources and also the capacity** to address issues of rights of the child; to take necessary measures to **establish the Children's Ombudsman** to specifically deal with complaints on violations of rights of the child and to provide remedies for such violations, taking into account the Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions

⁶ <http://www.banglanews24.com/en/fullnews/bn/92845.html>

⁷ <http://cpd.org.bd/index.asp>

⁸ UNICEF, 2011

⁹ 'Child Budget in Bangladesh' Report, June 2014

in the promotion and protection of the rights of the child; to ensure that **complaints mechanisms are easily accessible and child-sensitive**.

In the **Fifth Periodic Report**, the GoB has declared the National Human Rights Commission (NHRC) as a fully independent body and stated that NHRC has got involved to monitor the overall child rights situation in the country and taking necessary actions in the case of child rights violation. In order to discharge its duties effectively and efficiently, the NHRC has formed a seven-member Child Rights Committee represented by national and international NGOs and NGO network, UN bodies, eminent human rights and child rights advocates of the country. This Committee organizes bi-monthly meetings/dialogues where members participate and other relevant stakeholders in order to discuss child rights and related current issues and make specific suggestions and recommendations for the government and non-government institutions to implement. It also proposes various provisions in favour of children to incorporate in different national laws and policies; monitors implementation of the National Children Policy 2011. In addition, according to the Fifth Periodic Report, this Committee remains vigilant to identify and investigate child rights violations throughout the country, and members conduct investigations themselves whenever child rights violations are reported and they take immediate remedial actions to protect the rights of child victims. The Fifth Periodic Report also stated that, section 10.3 of the newly enacted Children Policy 2011 has created the legal provision to appoint an Ombudsman for children to contribute for the welfare and rights of the children.

The Coalition notes that the independence of NHRC is still questionable because of limitations in the enabling Act. Also, secondment of senior staff members from the GoB, coupled with inadequate budget allocations, delays in approval of the rules of business for its different functions including investigation and mediation etc undermine the independence and operational efficiency of the NHRC.¹⁰ Because of these limitations it has not received the 'A' status (which means full compliance with the Paris Principles) by the International Coordination Committee of the NHRIs (ICC-NHRI). There is no "child friendly mechanism" (for example, a different desk with trained child rights professionals with adequate transparency and confidentiality) at the NHRC. While the Coalition commends the NHRC for setting up this Committee, it notes that this Committee has certain serious limitations. For example, in addition to the abovementioned shortcomings, this Committee has no assigned focal person to ensure the implementation of the decisions. This Committee also does not, in practice, hold its bi-monthly meetings on a regular basis, and also lacks a mechanism to interact and consult directly with children. Any specific action by the NHRC to systematically monitor implementation of the National Children Policy 2011 or investigate cases of child rights violations has not been reported publicly.

The Coalition also notes that, although in the National Children Policy 2011, the GoB has created the provision to appoint an Ombudsman for children to strengthen efforts to secure their welfare and rights, limited progress has been made in this regard.

1.7 Dissemination of CRC, training and integration into school curricula

In the Fifth Periodic Report, the GoB has mentioned about a number of initiatives to translate CRC into local languages, disseminate through trainings, workshops and also including it in the school curriculum. The GoB has acknowledged that they have not undertaken any formal assessment to review the outcomes and impact of this dissemination.

Whilst acknowledging the efforts made by the GoB in this regard, the Coalition calls for more harmonized efforts. We also suggest choosing more child friendly language and means in disseminating the Convention.

Recommendations

- The Government of Bangladesh should make specific and time bound commitments to withdraw its reservations to the two articles of the CRC.
- The GoB should initiate a coordinated process to formulate and amend laws where necessary and also to ensure effective enforcement of existing laws and policies related to child protection.

¹⁰ ASK, 2012: NHRC is in critical juncture of hype versus real action

- The GoB should take necessary measures to establish a Children’s Ombudsman with adequate resources and power to specifically deal with complaints on child rights and violations, and to provide remedies for such violations
- The GoB should establish a separate Directorate/Division for Children within the Ministry of Women and Children’s Affairs, with adequate resources and to reduce duplication of efforts, for effective and efficient use of limited resources and to strengthen interventions for the best interests of children
- The GoB should make specific commitment in favour of introducing child budgeting, and improve the quantity and quality of spending on children.
- The GoB should increase the share of public resources available for programmes for children and lessen the reliance on foreign aid.
- Ensure that the development of the national budget takes a child rights approach, including the use of indicators, and a tracking system that make spending on children visible throughout the budget

2. Definition of the Child (Article 1)

In response to the GoB’s combined **Third and Fourth Periodic Report**, where it was claimed that, “a high powered Committee has been formed to review and harmonize national laws in line with the CRC.

The Committee identified five laws for revision- “(i) The Court of Wards Act, 1879; (ii) The Juvenile Smoking Act, 1919; (iii) The Mines Act, 1923; (iv) The Vagrancy Act, 1943; (v) The Children Act, 1974”. The Committee in its **Concluding Observations of 2009** recommended that The GoB **take necessary measures to define the child as any person below 18 years old and to empower the newly established Committee to expedite its review of various legislations and policies on the definition of child**, including for marriage, in the Children Act, 1974, Penal Code, Children’s Policy and National Plan of Action (NPA).

The GoB in its **Fifth Periodic Report** stated that it has undertaken several measures during the reporting period to set a uniform definition of the child in laws and policies of the country. The Report highlighted that the Children Act, 1974 has been thoroughly reviewed and the new Children Act has been drafted and endorsed by Cabinet to replace the existing one in order to ensure the rights of children are in alignment with the CRC, with a special focus on the age of children. The age of the child has been defined as 18 years in the new Children Act. The Report has mentioned that the National Child Labour Elimination Policy (NCLEP), 2010 has been adopted to prevent and eliminate child labour, especially hazardous forms of child labour. The NCLEP has defined “a person not attaining the age of 14” as child and “a person who has attained the age of 14 but below the age of 18” as adolescent.

However, the Fifth Periodic Report has followed up on the reference to a ‘high powered committee’ in the Third and Fourth Periodic Report, and their intended work with regard to harmonizing the definition of the child in different national laws. It remains unclear, in fact, whether such an exercise has taken place and whether such a committee even exists. Additionally, the age of criminal responsibility has also not been raised from 9 to 12 as per recommendation of the Committee. Moreover, the hazardous jobs have not been determined and so the eradication of child labor, especially in high harmful circumstances, remains an ongoing challenge.

Recently controversy arose with regard to the minimum age of marriage. On 15 September 2014, the draft of Child Marriage Restraint Act 2014 was placed before the cabinet. Amending the law of 1929, this amendment purportedly intends to tackle the high rate of child marriage in Bangladesh. Although the amending draft Act retained the minimum age of marriage for girls as 18, and 21 for boys, various sources report that Cabinet only agreed to approve the draft Act if this was changed. That is, that the minimum age of marriage for girls was lowered from 18 to 16, and for boys from 21 to 18.¹¹ However, unexpectedly, this sparked widespread controversy and criticism. Various Coalition members, such as Save the Children and Plan International, expressed concern about this proposed change. As a result, the GoB is now reconsidering this proposed change.

This is a welcome shift in position, as this would have potentially set back efforts to eradicate the practice of child marriage in Bangladesh. However, such proposed changes by policy- and law-makers have a negative

¹¹ <http://www.dhakatribune.com/law-rights/2014/sep/16/cabinet-okays-child-marriage-restraint-act-2014>

impact on ensuring peoples' perceptions regarding the age of the child remain intact. For example, religious leaders may think that it is now possible to argue children should be married before the age of 18, because the GoB has – however temporarily – indicated a willingness to effectively condone child marriage by lowering the minimum age of marriage for girls from 18 to 16. Further, it can be argued that it took a significant amount of time to increase people's awareness of the definition of a child as anyone under 18 years old, and this may be undermined by the GoB's recent steps in this regard.

Recommendations

- The GoB should increase the age of criminal responsibility from 9 years to 12 years to ensure the conformity with international standards.
- Continue and strengthen efforts to ensure public perceptions align with international standards; that is, people accept and believe that anyone under 18, including those who are 18 years old, are still considered children.
- The minimum age for marriage should remain as 21 years for boys and 18 years for girls.

3. General principles (Articles 2, 3, 6, 12)

3.1 Measures taken on the concluding observation

The GoB has mentioned about several measures undertaken to address principles of non-discrimination, best interest of the child, the right to life, survival and development and respect for the views of the children.

3.2 Measures taken to combat gender-based discrimination

In response to The GoB's combined **Third and Fourth Periodic Report**, focusing on the measures to ensure implementation of the principle of non-discrimination, like introducing secondary school stipends for the families with girls eligible to go to secondary school, achieving gender parity in access to primary education and Madrasha education¹², in its **Concluding Observations of 2009** the Committee expressed concern that the principle of non-discrimination contained in Article 2 of the Convention is not fully respected in practice. Girls continue to face discrimination and disparities, particularly with regard to health care, education, nutrition and child marriage, as do particular groups of children, including refugee children, children with disabilities, children in slums and rural areas and children of ethnic and religious minorities.

The Committee also expressed concern that children face discrimination on the basis of social origin, or other status of their parents. The Committee recommended that the principle of non-discrimination, be fully and vigorously applied by the State party and integrated into the implementation of all other articles to guarantee, without discrimination. The Committee further recommends that the State party takes necessary measures to ensure that efforts to address persistent discrimination and reduce disparities are adequate and effective in the family, schools and other settings, and in particular among marginalized and excluded children, including girls, children of ethnic minorities and refugee children.¹³

The **Fifth Periodic Report** has stated that in order to further reduce gender-based discrimination and disparities, the GoB has proposed a specific strategy and policy initiatives in its Sixth Five Year Plan (SFYP) with specific activities to implement. The report has listed a range of plans and programs but lacks thorough analysis of the impact of those initiatives and specific examples.

With regard to the **elimination of gender disparity**, the Fifth Periodic Report claimed that, the GoB is reforming the policy and legal framework, creating an enabling environment for girls, eliminating health and education disparities, giving priority to girls and women in social protection programs, addressing violence against girls and women, mainstreaming gender issues, developing institutional capacity, giving special training to service providers, creating women friendly physical facilities at all public health complexes and improving access to health services for women and girls, incorporating topics on health needs of both male and female and their impact on gender disparities in school curriculum, integrating gender issues in planning and budgetary process and ensuring female participation in economic decision making.

¹² <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/446/58/PDF/G0844658.pdf?OpenElement>

¹³ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/432/48/PDF/G0943248.pdf?OpenElement>

The Fifth Periodic Report has focused on the female secondary stipend program. However, the ground reality shows the need for further improvement in several areas. Although the female secondary stipend programme has contributed to raising girls' enrolment rates, it has not strengthened the quality of education. Girls still suffer more than boys from the poor quality of education. For example, they receive less attention from teachers at school, they cannot afford private coaching as easily as the boys because of the lack of female teachers, concerns over security, household responsibility etc. Moreover, the female secondary stipend programme is not a pro-poor social protection programme; it does not target beneficiaries based on poverty. Therefore, girls from extreme poor families who may not be able to complete primary school or afford the cost of education that is not met by the stipend, cannot attend secondary school and remain vulnerable to child marriage. The Fifth Periodic Report has also stated that the Ministry of Education (MoE) has reviewed and revised all text books to focus on gender. However the report has not elaborated the revisions. In a sharing meeting held on 15 September 2014 with NCTF members, children have expressed that they have not seen much that girls' experiences have been incorporated in the revised curricula.

3.3 Rights of children with disabilities and children belonging to minorities

Regarding **Rights of children with disabilities and children belonging to minorities**, the Fifth Periodic Report has mentioned that, four Action Plans were approved for addressing the needs of the children with special needs, including minorities and children with disabilities. Gender and Inclusive Education Action Plan is being implemented by the Ministry of Primary and Mass Education (MOPME). Construction of all new school buildings included ramps to improve access for children with physical disabilities. Special instruction has been given to all schools to equally treat the children belonging to minority and indigenous groups. Option for providing education in tribal languages created an opportunity for the children belongs to minority groups to receive education in their own language. The report also stated that the Ministry of Social Welfare (MOSW) has drafted the Act titled "Protibondhi Baktir Adhikar Ain, 2011" (The Persons with Disabilities Rights Act, 2011) in alignment with the Convention on the Rights of Person with Disabilities (CRPD). Department of Social Services (DSS) has taken an initiative to undertake a disability identification survey in 2012. The GoB has also introduced a stipend program to encourage education for the student with disabilities. The Coalition notes that the Persons with Disabilities Rights Act has been adopted in 2013.

3.4 Measures taken to ensure the best interests of children

In its **Concluding Observations of 2009**, the Committee noted that the principle of best interests of the child has not been clearly defined in national legislation and thus recommended to **define and explicitly incorporate the principle of best interests of child** into national legislation and other actions taken by judicial and executive branches of the Government; to **strengthen awareness-raising campaigns and training** that target policy makers, judges, law enforcement officials, social workers and parents on the principle and applications of the best interests of child and to **assess the impact of government actions and decisions**, as well as actions and decisions by civil society partners, based on best interests of the child.

The **Fifth Periodic Report** has stated that, in order to ensure the best interest of the children, the GoB has taken serious efforts including incorporating the principles of best interest of children in the new laws and policies, providing training to Government officials and professionals directly involved with child rights issues. The issue of the best interests of children has been outlined in the new Children's Policy as one of the core principles. The report outlined two sections of the Guardians and Ward Act, 1890 in favour of best interests of the child - section 17 (1), and section 17 (2).

The Coalition notes that the Fifth Periodic Report did not state the definition of 'best interest of child' as per national legislation and did not provide the qualitative assessment on how the 'best interest of child' has been achieved through the measures taken by the GoB as was recommended by the Committee. This may be because in Bangladesh very few initiatives have been taken using a systematic assessment such as a Child Impact Assessment (CIA). CIA is a tool which examines the existing and proposed policies, legislation or changes in administrative services for their impact on children and for how they support the implementation child's fundamental rights; best interest, survival, protection and participation.

The Coalition also notes that the legal provisions with regard to 'Status offences' do not fully comply with the principle of 'best interest of child'. 'Status offences' include truancy, running away, violating curfew laws or

possessing alcohol or tobacco. Such conduct would not be a criminal offence if committed by an adult but a child can be arrested and detained simply on the basis of their age. Status offences focus disproportionately on regulating actions of girls as well as boys who are poor, disadvantaged or who work or live in the streets and therefore spend much of their time outside of the home. The Vagrant and Shelter-less People (Rehabilitation) Act, 2011 grants the police broad powers to arrest those engaged in begging; children are not specifically referred to in the Act.¹⁴

3.5 Capital Punishment

When the Fifth Periodic Report was submitted, the amendment of the Children Act, 1974 was in progress and a draft was available. The newly enacted Children Act 2013 provides that, no child shall be sentenced to death, imprisonment for life or imprisonment. But when a child is found to have committed an offence so serious in nature that in the opinion of the court the punishment provided by this law is not sufficient, or if the court is satisfied that the child is so 'unruly' or of such 'depraved character' that s/he cannot be sent to a certified institute, or that any other alternative methods in which s/he may be dealt with are not suitable in this case, then the court may sentence the child to imprisonment and send him or her to prison.¹⁵ However, the period of sentence may not exceed the maximum period for which a child could have been sentenced as set out in the Children Act 2013. S/he may be ordered to be detained in a certified institute instead of prison until s/he reaches the age of 18. When a child is sentenced to imprisonment, he or she shall not be allowed to associate with any adult in the prison.¹⁶

3.6 Register of births and deaths of children

The Fifth Periodic Report stated that the Birth and Death Registration Act 2004 explicitly defines the role of different authorities to register birth and death of all children, including those placed in alternative care irrespective of religion, cast, gender and ethnicity.

3.7 Respect to children's voices

In response to the combined **Third and Fourth Periodic Report** that highlighted the National Plan of Action (NPA), 2005-2010 stressing child participation and that the GoB is giving increased attention to child participation in the efforts of establishing child rights, the Committee in its **Concluding Observations 2009** noted that, in practice, children are given a voice in some legal proceedings, subject to the discretion of the judge. However, the Committee expressed concern that **traditional attitudes impede full respect for the views of the child, especially within families, educational institutions and the juvenile justice system.** The Committee recommended to **promote and facilitate respect for the views of children and their participation** in all matters affecting them in all spheres of society, particularly at local levels and traditional communities, in accordance with Article 12 of the Convention; **provide educational information** to, inter alia, parents, teachers, government and local administrative officials, the judiciary, traditional and religious leaders and society at large on children's right to participate and to have their views taken into account and to **Amend national legislation so that the principle of respect for the views of the child is recognized and respected**, inter alia in custody disputes and other legal matters affecting children.

The Fifth Periodic Report stated that children's participation and respecting their voices is a must to formulate appropriate programs or policies for the betterment of the children. The report claimed children's representatives actively took part in the process of formulation of the Children's Policy, Prevention of Domestic Violence against Women, Children Act and National Plan of Action to Eliminate Child labour. The report also claimed that the GoB facilitated formation of National Children's Task Force (NCTF) that represent children from all categories and expressing opinions on formulation of various laws, policies and actions initiated by the GoB. The report mentioned about the mock Child Parliament (CP), another outlet for expression and participation by children first formed in 2003. The report also stated that, during reporting period, 10 CP sessions have been observed where children have expressed their opinions regarding weaknesses of different policies and programs of the GoB in relation to child rights.

¹⁴ Penal Reform International, Violence against children in juvenile justice settings in eight countries (2012). Available at:

<http://www.penalreform.org/news/pri-publishes-new-research-violence-against-children-juvenile-justice-settings-eight-countries>

¹⁵ Section 33 (1) of Children Act 2013

¹⁶ Section 33 of Children Act 2013

The Coalition applauds THE GOB's several initiatives in this regard especially on the Child Parliament, which various Coalition members actively support. However, the concern is that child participation should not be pursued in a tokenistic way. There should be meaningful efforts and mechanisms to meaningfully accommodate children's views, opinions, suggestions etc in the policy-making processes, especially where such policies and resulting laws affect the lives of children. The right to be heard needs further development and it is particularly concerned at very few opportunities that the family provides for voicing a child's own opinion and for participation in family, school, and community decision-making. Another challenge which has been acknowledged in the Fifth Periodic Report is to ensure participation of children from low income groups and hard to reach areas, including indigenous and minority groups. The GoB has not laid down any specific strategy to meet the challenge. Moreover, there are concerns regarding "post-voice threats" for the children which means that whenever they say something which expresses an opinion that is contrary to their elders' choices or existing social norms, they may risk being belittled or criticized. The belief that "children do not know much even for their own betterment" remains pervasive.

While acknowledging the increasing space for child related issues in media, the Coalition draws attention to the findings of the baseline study 'Children in Bangladesh News Media', conducted between June and August 2009, monitoring 12 national daily newspapers and three television channels in order to assess the frequency and quality of child-related news. The study shows that the media allotted very little space and time to children. The study found that only three percent or less of total news coverage by these outlets was dedicated to child-related issues and reports rarely sought the views of children even on issues or events directly concerning them.¹⁷

Recommendations

- The GoB should define 'best interests of child' in national legislation and outline a specific plan and framework to measure how far government initiatives have impacted on achieving those 'best interests'.
- The Government should take adequate and effective measures, including of setting up strong monitoring mechanism to address persistent discrimination and reduce disparities in the family, schools and other settings, and in particular among marginalized and excluded children, including girls, children of ethnic minorities and refugee children.
- The GoB should set up mechanisms to ensure that the voices of all children, including those from poor families, hard to reach areas, and indigenous backgrounds, are reflected in a structured way so as to overcome the tokenism in current practice of participation.

4. Civil rights and freedoms (Articles 7, 8, 13, 14, 15, 16, 17, 19, 37(a))

4.1 Measures taken on the concluding observation

The GoB has highlighted different initiatives in this regard without discussing much about the impact of those initiatives.

4.2 Birth registration, name and nationality and preservation of identity

In its **Concluding Observations 2009**, while appreciating the entry into force of the Births and Deaths Registration Act of 2006 and welcoming the progress made to increase birth registration to about 50 per cent, the Committee expressed concern over the **low birth registration rate and the manual registration system and issuance of birth certificates**. The Committee also expressed concern over the **lack of registration being a basis for discrimination and exclusion from access to social services**, especially in the case of children whose father- or both father and mother- are unknown, children born to single mothers, children born out of wedlock and refugee children. The Committee recommended that the State party **take all necessary measures to accelerate free of charge birth registration for all children born within the national territory**, including children whose father- or both father and mother- are unknown, children born to single mothers, children born out of wedlock and refugee children. It also recommends the State party **to carry out information and awareness-raising campaigns for parents and the community at large on the need to**

¹⁷ UNICEF Bangladesh Newsletter, Issue 19, September 2011. Can be accessed at http://www.unicef.org/bangladesh/UBN_19.pdf

register births. The Committee encouraged the State party to **consider the use of a mobile registration system** to reach remote areas and the introduction of a national **electronic birth registration system** and urged the State party **to allow children without official documentation to access social services**, such as health and education, while waiting to be registered.

In the **Fifth Periodic Report**, The GoB claimed that, as of March 2012, 98.91 percent of the total population of the country has brought under the birth registration program. The Periodic Report has also referred to widespread awareness raising programs (production and dissemination of posters, leaflets, brochures and promotional programs on radio and television) to raise awareness among the people regarding the importance of birth registration. However the Report acknowledged the challenge that, there are still some pockets such as 'tea garden, hilly areas and char land areas' where the birth registration rate is very low.

Regarding citizenship, the Fifth Periodic Report stated, Bangladeshi citizenship can be obtained by birth, descent, migration and naturalization. That is, every person born in Bangladesh shall be a citizen of Bangladesh except where 'if at the time of his birth – (a) his father possesses such immunity from suit and legal process as is accorded to an envoy of an external sovereign power accredited in Bangladesh and is not a citizen of Bangladesh; or (b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.' The Report also states 'Subject to the provisions of section 3 a person born after the commencement of this Act, shall be a citizen of Bangladesh by descent if his father or mother is a citizen of Bangladesh at the time of his birth'. The Fifth Periodic Report party report noted that, previously only father's name was necessary to identify a child for official purposes, but at present writing, names of both parents, that is the mother and father, are necessary. And with regard to abandoned children, as noted in the Fifth Periodic Report, different institutions such as Children's Village, Baby Homes under the MOSW take steps to give a name and identity through their case management systems.

With regard to the issue of Birth Registration, the Coalition notes with concern that birth registration rates are still quite low. According to the Bangladesh Demographic and Household Survey, 2011, the rate of registration of children under-five was approximately 31% in 2011. While this figure represents an increase from previous years' registration rates, it is still clear that less than half of all children under 5 years old have their identities registered. This has significant implications on their ability to access other services such as health and education. Further, the Fifth Periodic Report claimed that, to reach the 'hard to reach' groups, The GoB has taken special initiatives like, linking birth registration with EPI program so that parents become obliged to register births of their children to get the EPI service. There is also a mobile birth registration service in hard to reach areas. Here the concern is that, this strategy may push many children being left out of the EPI service which contradicts recommendation of the Committee. The Fifth Periodic Report has also mentioned about online birth registration program being introduced with the support of UNICEF. It claims that as of May 2012, total 41,850,969 have been registered through online birth registration system. The government statistics in this regard differs from document to document. A supplement published in different newspapers on Birth Registration Day -3 July 2012 acknowledges that 4.5% who have not accomplished birth registration belong to socially excluded and marginalized groups. The mobile registration system is yet to get mobilized to make universal birth registration within the reach of socially excluded and marginalized groups.

4.3 Freedom of expression and right to seek, receive and impart information

In the **Fifth Periodic Report**, The GoB stated that, print and electronic media have been playing a very supportive role to the causes of children. Almost all television channels have dedicated a special program run by the children. Besides, regular reporting and programs on child rights issues have received special priority in print and electronic media. State Television has been broadcasting a monthly program titled "Amader Kotha" (Our Words), in which high level government policy makers take part to answer questions of the children. The Report acknowledged that, a good number of national and international NGOs and UN agencies, initiated various efforts to strengthen the capacity of the print and electronic media to enable them to adequately address the child rights issues. Regular interaction between the media and the children from all walks of life created the opportunity for children to express their views and opinions on issues that directly and indirectly affect their lives, as well as receiving information on various issues regarding government's actions and actions taken by other stakeholders on the overall development of the country in general and rights of the children in particular. The report also stated that, in addition to the media, many government and non-government organizations have been regularly organizing consultation meetings, workshops and seminars at

local and national level through which children have got the opportunity to get information and express their views. The Fifth Periodic Report has also mentioned that The GoB has enacted the Right to Information Act 2009, and established the National Information Commission to ensure free flow of information at all levels.

The Coalition notes that the media in Bangladesh does not, in general, have strong specialist reporting capabilities when it comes to children's issues and rights violations. Moreover, many media does not have its own policy regarding its reporting in this area. Even where accepted standards do exist, such as the prohibition on reporting on the name of the child, media can still provide secondary information such as the name of the village which makes it possible to identify the child. Recently, the GoB has adopted a broadcast policy which has incorporated several provisions to maintain high ethical standards while broadcasting news and advertisements that affect children. While the policy is receiving various criticism on other aspects, the provisions relating to children should be retained and need to be implemented properly.

4.4 Freedom of association and peaceful assembly

The GoB has stated in the Fifth Periodic Report that along with NGOs, it has facilitated formation of a good number of children's organizations and with strong child representation.

The Coalition does not fully agree with the Periodic Report's comments about the children's organizations. While some new organizations have formed, especially in urban settings, many reputed children's organizations having country-wide reach have become defunct or weak. The main reasons for this are lack of support from the GoB, coupled with inappropriate attempts to try and interfere in order to exercise undue political influence over these organizations. The Coalition also notes with grave concern that the use of children in violent political activities remains pervasive. Although this is a long-standing phenomenon in Bangladesh, this intensified last year in particular in the lead up to the national election in January 2014, especially by the Islamic religious groups bringing children in the forefront of political demonstration and clashes which resulted in the death of at least 41 children. There should a clear message sent to duty-bearers, politicians and other relevant stakeholders that utilizing and manipulating children for political ends is unacceptable, and is in fact contrary to the principles underpinning children's right to participate and freedom of association and assembly.

4.5 Protection of privacy and protection of the image

On protection of privacy and protection of the image, the Fifth Periodic Report stated- Children Act, 1974 and Children's Policy 2011 made provisions for the protection of privacy and image of the children come in contact with the law as well as to protect other children. The Periodic Report referred to the Draft Children Act, 2012 (this has been enacted now) and stated that it has clearly spelt out provisions to protect privacy and images of the children who come in contact with law that includes (i) formation of a 'children's desk' in each police station; (ii) separate charge sheet for children and adults; (iii) formation of children's court; (iv) separate trial for children and adults; (v) children's participation in judiciary process; (vi) camera trial; and (vii) prohibition of dissemination information regarding on-going trial in children's courts through print and electronic media.

The Coalition appreciates that recently adopted broadcast policy has incorporated provisions to protect the privacy and images of the children. However, as is the common position in Bangladesh, efforts need to be increased and improved to ensure adequate implementation and enforcement.

4.6 Access to information from a diversity of sources and protection from material harmful for the wellbeing of children

In its **Concluding Observations 2009**, the Committee expressed concern that because of socio-economic realities of the country, not all children have equal access to information and media, particularly children living in poverty and marginalized children. The Committee recommended Bangladesh to strengthen its efforts **to fully guarantee equitable access to appropriate information for all children**, especially for those who live in poverty, in remote and rural areas, and in conformity with their age and maturity. The Committee was deeply concerned that the internet service providers, radio and satellite television channels operate with minimum regulations to protect children against harmful information, materials, as well as marketing practices, including the exposure of children in urban areas to digital pornography. Hence the Committee recommended

that the State party should consider adopting **specific legislation and develop appropriate guidelines to protect children from harmful information, materials and marketing practices that undermine the welfare and dignity of children.**

The Fifth Periodic Report has mentioned about several Government and NGO initiatives in this regard. The report has also acknowledged that children living in rural and hard to reach areas are still deprived of accessing appropriate information.

The Coalition appreciates The GoB's acknowledgement and wants to stress that ensuring equal access to appropriate information for all children, especially children living in hard to reach areas needs to be taken as high priority and innovative and creative approaches should be taken including of using local and traditional means of communication like theatre, village song etc. Priority should also be given for the protection of privacy and protection of image. Several incidents of rape, torture and sexual harassment have been reported along with taking image and further blackmailing with that which led to the reported suicide of several young girls.

4.7 The right not to be subjected to torture or other inhuman treatment, including corporal punishment

In its **Concluding Observations 2009**, the Committee remained concerned about ineffective implementation of existing laws to prevent corporal punishment and existence of certain regulations in schools that permit forms of corporal punishment. The Committee recommended to **enforce existing laws to explicitly prohibit corporal punishment; to raise public awareness of this prohibition** in order to transform societal attitudes towards the disciplining of children and to prevent corporal punishment at home, in schools, institutions and workplaces; **to provide training and advocacy to promote alternative, non-violent forms of discipline** in the family, schools, institutions, communities and to ensure that all cases of corporal punishment **are investigated and perpetrators are brought to justice.**

In the **Fifth Periodic Report**, The GoB stated that, the High Court has banned all forms of punishment in all primary and secondary educational institutions in Bangladesh. The High Court also issued a guideline regarding protecting children from sexual harassment (writ petition no 5916/2008). The Directorate of Primary Education (DPE) has issued four circulars during the reporting period to prevent all types of corporal punishment in schools. Besides, the DPE implemented numbers of awareness raising activities to stop corporal punishment in school and other settings.

However, the Coalition is dismayed by the lack of implementation of the above-mentioned measures. The High Court guidelines are yet to be translated into an Act and there are also legal provisions available in the country that allows for corporal punishments in different settings (**Annex 2 for details**). Since the ban on corporal punishment in schools, some very minor progress may be evident that this practice is declining. However, weak implementation and enforcement means that this practice remains far from being eliminated as confirmed by recent surveys. For example, a recent survey by the Bangladesh Legal Aid Service Trust (BLAST) and Institute of Informatics and Development (IID) indicated some minor progress was visible, although an overwhelming majority of the students (77.1%) still confirmed the existence of some sort of physical and/or humiliating punishment still took place in their educational institutions (physical or psychological). However, it needs to be mentioned that only 34.9% of the teachers acknowledged these incidents, indicating that there was a sense of denial among the authorities in spite of the ban.¹⁸ Another survey conducted by the Child Parliament revealed that in 2011, 68% children have complained of physical punishment while in 2010, it was 69%.¹⁹ These circumstances show that more and better efforts and required not only to eliminate the persisting practice of corporal punishment, but also to address existing perceptions of teachers and other adults regarding the practice that undermine efforts to eliminate it.

4.8 Physical and psychological recovery and social reintegration of child victims

The Committee recommended The GoB to **use the recommendations as a tool for action**, in partnership with civil society and in particular with the involvement of children, to ensure that every child is protected from

¹⁸ BLAST and IID 2012 and Iqbal and Haq 2013

¹⁹ Daily Ittefaq, 8 August 2013

all forms of physical, sexual and psychological violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.

In the **Fifth Periodic Report**, it has been stated that, as a follow up to the UN study on violence against children, the GoB has taken initiatives to ensure proper implementation of existing laws. In addition to existing laws, a good number of child friendly guidelines have been passed by the High Court focusing on ensuring a safe home with comprehensive child friendly services, age, protection, basic need, minimum standard of care, right to consent and opinion, prohibition of death penalty & capital punishment. The report also stated, in order to address needs of the child victims, The GoB has been implementing multi-sectoral program on Violence Against Women (MSPVAW) jointly with the Government of Denmark. Eight One-stop crisis Centers (OCC) are being run by the MSPVAW. The main objective of the OCC is to provide all required services for women and child victims of violence. The OCC provides health care, legal assistance, DNA test, social services and psychological counseling.

The Fifth Periodic Report has stated that till April 2012 a total of 2808 child victims received services from OCC. The Report also highlighted the establishment of National Trauma Counseling Center (NTCC) in 2009 for providing psychological counseling to women and child victims of violence. NTCC has been arranging awareness and supportive counseling training programs for teachers and students of different schools and colleges, which includes the problems among children and adolescents and how to deal with such problems, psychological counseling services for women and child victims etc.

While welcoming the abovementioned steps taken by THE GOB, the Coalition is concerned that, the number of OCC is not enough and procedures for accessing services are complicated. OCC personnel lack understanding of the concepts underlying OCC and are not trained to provide child-friendly services to victims. There is also a lack of trained counselors in the OCCs. Since these shelter homes are project-based, they are dependent upon project funding and cannot support themselves independently.

Recommendations

- All children currently held in adult prisons should be separate from adults, and removed with the utmost expedience to a remand home or place of safety in conformity with the Children Act 2013.
- Birth registration must be ensured across the country and proper age determination procedures established and implemented in the Court system. Where a child claims to be under the age of sixteen/eighteen/nine years old (in differing scenarios), 'the benefit of doubt' should be given to the child and all the relevant protection that this brings under legislation.
- A clearer distinction must be made between measures for children in need of protection and those in conflict with the law to ensure that those in need of protection are not taken through the criminal justice system. Similarly, status offences such as begging and prostitution should be identified as welfare issues and children engaging in these activities should be treated by the social welfare system and not the criminal justice system.
- More juvenile courts with judges and judicial officials trained in child-rights approaches should be created that can hear children's cases on a priority basis.
- The GoB should ensure that the courts be supported in their decision-making by social workers, probation officers or other suitable persons who can liaise with family and community and identify community-based alternatives to pre-trial detention.
- The GoB should revisit its policy to bring children working in the informal sector within the ambit of law and take effective steps to withdraw all children from hazardous work.
- The GoB should facilitate and ensure the implementation of children's right to be heard in accordance with Article 12 of CRC and promote children's meaningful participation at all levels of state, family, school and community within formal as well informal spaces and governance arrangements.
- The GoB should put in place a monitoring mechanism to better ensure that all cases of corporal punishment are investigated and perpetrators are brought to justice.
- The GoB needs to develop effective promotional materials and campaigns outlining the negative effects of physical and humiliating punishment on children. This information needs to be circulated and

disseminated to all citizens in an accessible manner and which provides clear details of illegality of physical abuse of children.

5. Family environment and alternative care (Articles 5, 9, 10, 11, 18, 20, 21, 25, 27.4)

5.1 Measures taken on the concluding observation

The Fifth Periodic Report has summarized different initiatives with regard to promoting family environment and alternative care.

5.2 Family environment, parental guidance and capacity and responsibility of parents

Regarding *Parental guidance, responsibilities and assistance*, the Committee expressed concern in its **Concluding Observations 2009** that, social work and services to support parents, families in performance of their child-rearing responsibilities (notably of children living in single parent families) are inadequate.

Moreover, services provided by the State party do not appear to adjust family situation and thus recommended that the State party **expand the ongoing community care mechanisms and allocate sufficient human and financial resources for family support and proactive social work.**

With regard to *Children deprived of a family environment*, noting that the State party has enhanced provisions and capacity of shelters, orphanages, baby homes and similar institutions to accommodate more children deprived of their family environment, the Committee expressed concern in its **Concluding Observations 2009** that family-type care arrangements are almost non-existent. The Committee also noted with concern the inadequate facilities in institutions, lack of continuous training, and skill development for staff of care institutions and expressed concern at the lack of clear policies or measures on return of children to their families whenever possible. The Committee reiterated its previous recommendation in this regard and urged Bangladesh **to intensify its efforts and partnerships to increase alternative care facilities.** The Committee also asked the State party **to accelerate measures to transform care institutions into family-type environments**, away from project-based approaches and through longer term planning and implementation. The Concluding Observations also recommended that the GOB undertake a study to assess the situation of different categories of children placed in institutions and adopt measures to improve their living conditions and the services provided.

In the **Fifth Periodic Report**, The GoB stated that Ministry of Social Welfare (MoSW) undertook a study in 2008-2009 and adopted measures to improve the living conditions of children. It has also been stated in the report that, the GoB with financial support from UNICEF initiated development of a training package titled "Child Development: A Child's Right Perspective" under the 'Enabling Environment for Child Rights (EECR)' Project. Knowledge on child development is being introduced and disseminated to help change perceptions of a 'child' and 'childhood' in the society so that participants groups recognize and describe key features of physical, emotional, psychological and cognitive development at different stages of childhood. With regard to children deprived of family environment, the Fifth Periodic Report stated, the main care arrangement for children without parental/family care is institutionalization of children.

The Coalition notes that the Fifth Periodic Report has not touched upon the detail of the measures taken and the impact created to improve the living conditions for children as the result of the study. The Coalition appreciates that the new Children Act 2013 has incorporated provisions of family/community based alternative care options. However, there is no clear or uniform adoption law as yet in Bangladesh; in fact, for some quarters of the population, such as Muslims, it is outright illegal. Although the law applicable to Hindus allows Hindus to adopt children, it has several limitations such as only male children can be considered for adoption. Further, unmarried Hindu women and married Hindu women without the permission of their husband cannot adopt any child. Although the Law Commission recommended in early 2013 that the GoB enacts a clear and uniform law on adoption for all citizens, no progress has been made in this regard.

5.3 Children separated from parents

The Fifth Periodic Report has highlighted two initiatives taken with the support of UNICEF- 'Amader Shishu' (Our Children) and the 'Child Friendly Space (CFS)'. The aim of 'Amader Shishu' project is to provide community based care for orphans and vulnerable children. The CFS was established in schools, local government buildings to provide safe space for children to play, to learn and socialize in the aftermath of Cyclone Sidr in 2007.

5.4 Family reunification

The Fifth Periodic Report has mentioned that the social workers make efforts to find out the address of the children's families who are staying at Child Development Centres (CDC) and Vagrant Homes, and try to contact family members by telephone and letter. Social workers also make efforts towards family reintegration. The GoB has referred to the Protection of Children at Risk (PCAR) project and stated that reintegration of children with the family and community was one of the main objectives.

However the Fifth Periodic Report has not provided any data about how many children have been reunified with the family and no specific example has given on the findings of the follow-up of the reintegration process.

5.5 Children deprived of family environment

The Fifth Periodic Report mentioned that the 'Child Sensitive Social Protection System in Bangladesh (CSPB)' project is expected to benefit 100,000 children. The GoB has also mentioned that it has been preparing to establish a national child protection system to ensure protection of children including children without parental/family care. Moreover, the GoB has referred to a number of centres set up for children deprived of a family environment like- Baby Home, State Children Family, Day Care, Destitute Children Rehabilitation, Home for Disadvantaged girls etc.

However, the Coalition is concerned about the quality of such services as the Fifth Periodic Report has also failed to provide qualitative information. It is therefore unclear whether such children, who are unable to be looked after by their own family, received adequate protection, access to health care and education and other rights and services. The Coalition would appreciate more data and information about the circumstances of such children living and/or benefiting from The GoB abovementioned services.

5.6 Placement of children in shelter homes and periodic review of placement

The Fifth Periodic Report has mentioned about 7 Safe Custody Homes which have been protecting victims from suffering and humiliation by separating them from their confinement in jails with adults and serious criminals. The report mentioned that each home has a capacity for 50 children.

The Coalition considers that the number and capacity of safe custody homes are inadequate. The NHRC has visited several safe homes and found serious mismanagement including overcrowding, children co-habiting with adults who are not related to them, poor infrastructure and services etc. The NHRC has recommended adopting a policy guideline with regard to the management of the safe homes. The Coalition supports this recommendation with adequate attention paid to child protection and the best interests of the child.

5.7 Abuse and neglect, including physical and psychological recovery and social integration

The Fifth Periodic Report has stated that The GoB has been providing support to the victims of abuse and neglect to ensure their access to adequate services for recovery, counselling and rehabilitation through 6 Shelter Homes, 1 Reception Centre, 6 Safe Homes and 6 Training and Rehabilitation Centres for socially disadvantaged women and children.

However, the Fifth Periodic Report has not touched upon the quality and impact of these services and also did not mention how many children have received these services. Further, the Concluding Observations 2009 also drew particular attention to children from marginalised groups, such as girls, children from poor families, street and working children, as they suffer from abuse the most. However the Fifth Periodic Report has not addressed these groups individually, which is a regrettable shortcoming.

5.8 Recovery of maintenance for the child

The Fifth Periodic Report has mentioned different laws that protect the rights of recovery of maintenance for the child. However the Report has not talked about the challenges in implementing the laws. According to the Family Courts Ordinance 1985, parents are liable to provide maintenance to their sons until they reach puberty and daughters until marriage.

However, the Coalition notes that, in practice, when making decisions on child maintenance, the Family Court uses its discretionary power to circumvent the abovementioned ordinance, and often makes exceptions to the requirement based on the 'best interests of the child'.

Recommendations

- The GoB should intensify its efforts with strong monitoring and extending partnerships with NGOs to increase alternative care facilities including providing additional financial and human resources.
- The GoB should accelerate measures to transform care institutions into family-type environments, away from project-based approaches and through longer term planning and implementation for sustainable impact.
- The GoB should immediately draft and enact a clear and uniform law on adoption applicable to all Bangladeshi citizens, including amending the Muslim Family Law to allow Muslims to adopt children.
- The GoB should include domestic workers within the protection accorded to works under the Labour Act 2006; with a clear prohibition against employment of children below the age of 14.
- The GoB should implement a special schooling system for those children who are compelled to engage in income generating activities, including activities to reintegrate these children into mainstream schools. Vocational and/or a technical education could be initiated for children as well as special stipends program to improve the functional quality and utility of obtaining a secondary education in Bangladesh.

6. Disability, Basic health and Welfare (Articles 18, 23, 24, 26, 27)

6.1 Measures taken on the concluding observation

The Fifth Periodic Report has highlighted its initiatives to ensure rights of the persons with disabilities and to achieve sustainable improvement in health and nutrition.

6.2 Dignity, self-reliance and active participation of children with disabilities

The Committee in its **Concluding Observations 2009** expressed concern that children with disabilities, in particular girls, experience discrimination and prejudicial treatment throughout their development. The Committee recommended that the State party, taking into account article 23 of the Convention and General Comment No. 9 (2006) on the Rights of Children with Disabilities, continue to protect and promote the rights of children with disabilities, and to take appropriate measures to **implement the Convention on the Rights of Persons with Disabilities**; to make available **reliable and disaggregated quality data** on the extent and causes of disability; to institute measures and medical procedures for **early detection of disabilities** in children; to review the Policy for People with Disabilities (PWD) under consideration for approval and update the measures and actions needed for implementing a **comprehensive policy for children with disabilities**; to ensure that the **role and responsibilities of the National Foundation for Development of the Disabled are clear**, and facilitate coordination with other relevant ministries and to undertake greater efforts to **make available the necessary professional (i.e. disability specialists) and financial resources**, especially at the local level, and to promote and expand community-based rehabilitation programs, including parent support groups, to ensure that the rights of all children with disabilities are addressed.

In the **Fifth Periodic Report**, The GoB stated that, the National Disability Welfare Act, 2001, The Persons with Disabilities Rights Act, 2011(still in draft and waiting for approval by the Cabinet)²⁰ and the Children's Policy 2011 provide equal rights for Persons with Disabilities (PWD). All these Acts have the provisions to ensure the dignity, self-reliance and participation of children with disabilities.

²⁰ This has been enacted already as The Persons with Disabilities Rights Act 2013

THE GOB has also highlighted different projects and programs undertaken for the children with disabilities in the Fifth Periodic Report. It has mentioned, for example, the 'Protibondhi Sheba O Sahajya Kendra', a centre set up to provide different services to the persons with disability. The Fifth Periodic Report also mentioned that a total of 35 such centres are operational in different parts of the country which have provided therapeutic, counselling, referral and other services to 1,00,000 people.

However the Coalition observes that, the Fifth Periodic Report has provided adequate information regarding how many children with disabilities have in fact received services from those centres and if there are any child friendly approached being undertaken by the centres.

The Fifth Periodic Report has also referred to the One Stop Mobile Therapy Services, setting up of an Autism Resource Centre and a free school for the autistic children.

The Coalition notes that the Fifth Periodic Report has not addressed the impact of the initiatives taken by The GoB. The Persons with Disabilities Rights Act 2013 is a commendable move from a welfare approach to a rights based approach. This Act has defined the types of disabilities and their specific rights, included provision for providing identity cards for all persons with disabilities, formation of committees at different administrative level to protect the rights of the persons with disabilities and ensuring representation of organizations working for persons with disabilities in those committees. The Coalition also notes with appreciation that, the Children's Policy 2011 has kept special provisions for the children with disabilities that include ensuring survival of all children with disabilities with dignity, mainstreaming children with disabilities into society and ensuring their active participation in all aspects of their life, including education, arrangement for special education for children with disabilities who may not be able to get enrolled in mainstream education for obvious reasons, initiating activities for identification and prevention of disabilities and providing appropriate support to their families and ensuring easy access to all types of infrastructures and services for children with disabilities.

The Coalition welcomes the GoB commitment to children with disabilities, as recently displayed in the 4th draft of the National Social Security Strategy dated 4 June 2014 (NSSS), which has proposed a monthly benefit for children suffering from disability who also belong to the poor and vulnerable families (estimated 350,000 children).²¹ The Coalition would like more information about whether the initiatives referred to the Fifth Periodic Report such as the One Stop Mobile Therapy Services, the Autism Resource Centre, and a free school for the autistic children, have in fact been established.

6.3 Survival and development

While acknowledging that 66 percent of children are living below the poverty line, the Fifth Periodic Report has claimed that the incidence of poverty among households has decreased in recent years. This is commendable, as is the achievement – highlighted in the Report – that Bangladesh has made towards reaching some of the MDG targets such as reducing child mortality.

However, national poverty rates still remain high, with poverty in households with children particularly high – much higher than the national level. Around 42% of households with children aged 0-7 years, and around 37% for households with children aged 8-12 years. Further, the Fifth Periodic Report does not mention rising inequality in Bangladesh. The achievement for reducing child mortality is certainly therefore remarkable but child mortality and poverty rates are still high. Even the National Health bulletin 2013 prepared by the Directorate General of Health Services has acknowledged the death of a total of 21,567 bellow five children in 2012 in government hospitals.²²

6.4 Health and health services

In the **Concluding Observations 2009**, the Committee recommended Bangladesh to **adopt a coordinated and cost-effective strategy** to accelerate reduction of under-nutrition in children, including effective use of micronutrients, especially for infants (6 to 24 months) and adolescents, and continue to work with parents, family members, health workers, and community leaders to change negative behaviour regarding children's nutrition; to take all necessary measures to **increase access to free primary health services** with particular attention to pre-natal as well as post-natal care for children and their mothers; to build national capacities to

²¹ National Social Safety Strategy (NSSS), 4th Draft, June 2014

²² New Age, 13 April 2014

train health workers and medical practitioners, and increase the number of skilled birth attendants; to adopt specific measures to ensure that **minority and indigenous children are not discriminated** against in the enjoyment of their right to access basic and specialized health services.

Expressing interest in the ongoing health reform and idea of a “fast track” for improving coverage, the Committee noted with concern that the public sector only provides 40 per cent of health services and 85 per cent of deliveries of babies happen at home in the absence of skilled birth attendants. Thus the Committee recommended **ensuring support and collaboration from the private sector and NGOs to provide the professionals, skilled workers** required to operate a voucher system.

In the **Fifth Periodic Report**, The GoB stated that, the goal of health, population and nutrition sector (HPN) in Bangladesh is to achieve sustainable improvement in health, nutrition, and reproductive health, including family planning for people, particularly of vulnerable groups, including women, children, the elderly and poor. It stressed that, during the reporting period the HPN sector emphasised reducing severe malnutrition, high mortality and fertility, promoting healthy life styles and reducing risk factors to human health from environmental, economic, social and behavioural causes with a sharp focus on improving health of the poor. The Report has referred, in particular, to the increase in life expectancy from 44 years to 67 years, the decline in infant mortality from 92 per 1000 live births to 41, and the decline in under-five child mortality from 146 per 1000 to 54, and the increase in child vaccination to 81% from 54.1%.

The Coalition notes that, the prevalence of malnutrition in Bangladesh is still among the highest in the world. Millions of children and women suffer from one or more forms of malnutrition including low birth weight, wasting, stunting, underweight, Vitamin A deficiencies, iodine deficiency disorders and anaemia. 41% of children under-five years are moderately to severely underweight and 43.2% suffer from moderate to severe stunting, an indicator for chronic malnutrition. Underweight prevalence decreased slightly between 2004 and 2007. Of greater concern are the rates of wasting that increased over the same period reaching 17.4 %, exceeding the WHO emergency threshold level (15%), which indicates an urgent need for action.²³ A recent study shows that more than 5% children of the country die before reaching their fifth birthday, mostly of preventable diseases. Malnutrition is blamed to be the underlying cause of about one-third of these deaths.²⁴ A number of challenges remain in child health, which demands extraordinary efforts to close the equity gaps. Disparities in the effective coverage of health services by geographic regions, rural/urban settings, and slums and non-slums and according to sex also persist to some extent. A recent report published by the Ministry of Food has even underscored that the number of children of severe acute malnutrition has increased to 18% in 2013 from 16% in 2011.²⁵

There are several reasons behind malnutrition and it should be addressed in a holistic way with a multi-sectoral approach. Although the reasons are complex and varied, one common reason is poverty. But there are other pressing reasons as well. An ICDDR-B study shows that there is a reduction in exclusive breastfeeding after the child reaches three months. Low birth rate is a major risk factor of child malnutrition. It mostly happens to adolescent mothers, which is the consequence of child marriage. Absence of good feeding practice is also a big reason.

6.5 *Reproductive health rights of adolescents*

In the **Concluding Observations 2009**, The Committee expressed concern that the decision to incorporate policies for adolescents into a newly revised Children’s Policy may obscure the necessary distinctions between needs of the different age groups. The Committee recommended to **undertake a comprehensive study** in order to understand the nature and extent of adolescent health problems, with the full participation of adolescents, and use this as a basis for the formulation of adolescent health policies and programs, with particular attention to female adolescents; to develop a **separate comprehensive policy** on the critical issues affecting the rights of adolescents, including mental health and reproductive health services; to pay **special attention to the psycho-social needs of adolescents**, especially girls, and provide appropriate, child-friendly, and confidential counselling services in schools and clinics and disseminate information about

²³ [http://www.unicef.org/bangladesh/Child_and_Maternal_Nutrition\(1\).pdf](http://www.unicef.org/bangladesh/Child_and_Maternal_Nutrition(1).pdf)

²⁴ <http://dhakatribune.com/bangladesh/2013/may/18/malnutrition-continues-take-toll>

²⁵ Prothom Alo, 1 August 2014

their existence and availability and to provide **separate and appropriate sanitary facilities** for adolescent girls and boys.

In the **Fifth Periodic Report**, the GoB has listed a number of activities to ensure health rights of adolescents including- awareness building programs, providing consultation and treatment for reproductive health related problems of adolescents, making all service centres adolescents friendly etc.

The Coalition notes that, the GoB has neither undertaken a comprehensive study nor developed a policy to address critical issues of the rights of adolescents as was the recommendation of the Committee. The UNICEF Report titled 'Improving Children's Lives: Transforming the Future' has revealed that, within South Asian countries, child marriage is highest in Bangladesh. This report has also focused on the disparities between people living in urban areas and in villages. For example, a total of 32% babies were born where a skilled health worker was present. However, the ratio between urban and rural infants receiving care from skilled health workers is 54: 25. Another UNICEF study shows that, 33% of adolescent girls are married before the age of 15; and 60% become mothers by the age of 19.

Adolescents lack information about health issues. According to the UNICEF study, roughly only about three in five adolescents have even heard of HIV. It is also reported that more than 50 per cent of adolescent girls are undernourished and suffer from anemia.²⁶ According to the report 'Children and AIDS, Third Stocktaking Report 2008', published by four UN agencies, only 16% of girls in Bangladesh aged between 15 and 24 have a comprehensive knowledge of HIV. There is a high level of misconception among youth as more than half believe that HIV/AIDS can be spread by coughing or sneezing and 50% believe that HIV can be spread through sharing food or water with a HIV infected person.²⁷ Only 16 percent of girls aged between 15 and 24 have a comprehensive knowledge of HIV.²⁸

6.6 *Early and forced marriage*

The Committee in the **Concluding Observations of 2009** recommended Bangladesh **to take urgent legislative measures** to prohibit early, forced marriages and other traditional practices harmful to the health and development of boys as well as girls. The Committee also recommended introducing **gender-sensitive awareness-raising programs**, with the involvement of community leaders, for practitioners, families and general public to prevent and end harmful practices, especially in rural areas and to adopt effective measures to empower girls in the family, school and community settings.

The Fifth Periodic Report has acknowledged that early childhood marriage and forced marriage of girls is still a problem in Bangladesh but the practice of early marriage has been reduced following awareness programs, the enforcement of laws and several activities implemented by NGOs, guardians, teachers, religious leaders and the children themselves.

The Coalition notes that early marriage is detrimental to several other rights of children and also undercuts almost every MDG. It has a direct impact on the education, health, nutrition and protection of children. The recent UNICEF Report titled 'Ending Child Marriage – Progress and Prospects', published in July 2014 has mentioned that Bangladesh has one of the highest numbers of under-15 child marriages in the world. According to this report, 74% of the girls aged below 18 years who are married off, and over 20% girls who are married off before reaching 15 years, have three or more before reaching 24 years.

The reasons underpinning child marriage are complex and varied. Child marriage is not, for example, only due to a lack of awareness about its illegality and harmful nature. Girl children remain the victims of childhood marriage due to prevailing social norms, such as the practice of dowry (which is illegal but still widely practices), and because of concerns regarding their security after they reach puberty, including of sexual harassment by boys and men. Poverty has also a huge contributing role. A recent study done by Save the Children shows that nearly 80% of the girls living in slums, and 46% of boys living in slums, are married before reaching 18 years. Poverty and fear of sexual harassment accounted for 20% and 19% of these marriages respectively.²⁹

²⁶ [http://www.unicef.org/bangladesh/Adolescent_Empowerment_\(KA\).pdf](http://www.unicef.org/bangladesh/Adolescent_Empowerment_(KA).pdf)

²⁷ Baseline HIV Survey among Youth in Bangladesh, NASP, 2006

²⁸ http://www.unicef.org/bangladesh/Donor_Newsletter-17_January_.pdf

²⁹ Children Living in Dhaka slums: Context and Analysis, Save the Children, May 2014

The other main reason for the failure to stop child marriage is the weak implementation of the law. The persons who are involved with child marriage are seldom punished. The confusion created with regard to the minimum age for marriage while amending the Child Marriage Restraint Act 2014 shows the contradictory and confusing position of government authorities. It was contradictory to many The GoB policies on health and nutrition, education and population control. This was also a serious backlash to the commitment made by the Prime Minister to ensure that by 2021, no girl under 15 will be getting married, and eradicating all child marriage by 2035 in the first-ever Girl Summit held in July 2014. The proposal of the Cabinet to consider a male under 18 years and a female under 16 years as minor, and thus allowing girl children over 16 years to be married was a clear indication of going backward and a total disregard of the rights of the child. The latest media news indicates that because of the huge criticism from the civil society and other stakeholders, The GoB is reconsidering its position of setting 18 years as the minimum age for marriage for both boys and girls.

6.7 Social security, including reducing poverty and inequality and childcare services and facilities

The Committee expressed deep concern that child poverty and inequality pose serious challenges, as do the rapid urbanization and increasing number of slums and sub-standard housing, insufficient allocation of resources and the unclear criteria for selecting beneficiaries of social safety net programs. The Committee was also concerned that the scale of social safety net programs are limited in view of the magnitude of problems and that these programs are not adequately assessed and evaluated for their short and long-term impact. The Committee encouraged Bangladesh **to take all necessary steps to implement the legislation and plans of action** aimed at reducing child poverty and improving children's living standards. The Committee further calls on the State party to **undertake comprehensive assessments of the social safety net programs for children**, identifying incidences of inequality, discrimination and propose appropriate remedies and to **develop and implement plans to replicate and scale up their successful child protection programs** aimed at improving children's standard of living and enjoyment of their rights throughout the country.

In the **Fifth Periodic Report**, The GoB stated that, Bangladesh has made remarkable progress on many human development indicators during the reporting period. Progresses have been made on health, education, nutrition, employment generation and the creation of social safety nets for the poor through social security programs. However, the Report acknowledged that, lack of child specific data, policy review and program evaluation raises questions about the progress made on child-related indicators. The report acknowledged that around 26.5 million of the 66 million children in Bangladesh live below the national poverty line and more than half of households with children are poor in terms of international definition of poverty line. Around 58 percent of all children are still deprived of one of the six deprivation indicators: shelter, sanitation, water, information, education and health. Around 13 percent of all children aged 5-14 years are engaged in child labour. With that note, the report highlighted on various programs and projects including 100-day employment generation program, Social poverty alleviation programs, Micro-credit programs for self-employment, Vulnerable Group Development, Enabling Environment for Child Rights etc.

In this context, the Coalition notes that 11 million children in Bangladesh are extremely poor. Over 8 million youths are without primary education or skills³⁰. None of the programs mentioned by The GoB in the Fifth Periodic Report directly target children. Children are only incidental beneficiaries. For example, VGD goes to ultra poor women, so their children benefit indirectly. The Coalition appreciates The GoB's efforts in drafting the National Social Security Strategy (NSSS), which is still a draft. The NSSS has acknowledged that coverage of very young children by social protection schemes is very minimal; around 15 million children do not receive direct social protection support. ³¹ We appreciate that the NSSS has proposed a monthly child grant for all children up to age 4 in poor and vulnerable families, as well as a school stipend for primary and secondary school going children belonging to the poor and vulnerable households.

The Coalition also stresses that, addressing children's needs in a systematic manner necessitates more than just budgetary allocation. Currently, according to the Bangladesh Bank data, total government spending on

³⁰ <http://www.thedailystar.net/beta2/news/lets-give-our-boys-a-chance-to-be-men/>

³¹ National Social Protection Strategy (NSPS), 3rd Draft, January 2014

national social protection programs is around 2% of GDP. There is an urgent need to ensure that the money that is being already allocated is utilized properly. Due to poor governance, corruption and lack of monitoring, large amounts of funds in different public sectors are not reaching their targeted recipients. Lack of capacity at the administrative, technical and political levels mean that most programs cannot be implemented as envisioned. In many cases, staff are not properly trained to carry out their responsibilities and, in the absence of accountability to either the state or the people, they have little incentive to provide better services. The highly centralized administrative system further weakens the government's capacity to monitor the progress at the grassroots level. Often, policymakers are too far away from the ground realities to make informed decisions. Failure in implementation of policies is a major hindrance to ensuring children's rights and access to services. A study conducted in 2010 by Centre for Policy Dialogue (CPD) found that the money of the Primary Education Stipend Project 2006 reached only 40 percent of the poorest families, while 27 percent of total households that had received the stipend were not entitled to it.³²

Recommendations

- The GoB and other stakeholders need to take steps to ensure necessary infrastructure and facilities in public places and business establishments including all transport, bathrooms, stairs and lifts for people with a disability.
- The GoB should take all necessary measures to increase access to free primary health services with particular attention to pre-natal and post-natal care for children and their mothers;
- The GoB should adopt more coordinated strategy to accelerate the reduction of under-nutrition, in particular stunting, in children;
- The GoB should develop a separate comprehensive policy on the critical issues affecting the rights of adolescents, especially girls, children from poor households and ethnic minorities, including mental health and reproductive health services;
- The GoB should undertake gender-sensitive awareness-raising programs, with the involvement of community leaders, parents and the general public to prevent and end harmful practices like early marriage, especially in rural areas.
- As girls are the main victims of child marriage, the GoB should enhance the stipend program (Upa-Britti) for girls. This program should also not be allocated only on the basis of merit rather on the basis of poverty in order to include the most disadvantaged children.
- The GoB needs to take measures to ensure health services for the vulnerable children in the country, especially for the most vulnerable children at the Char land, Haor and Chittagong Hill Tracts.
- The GoB should immediately finalize the National Social Security Strategy (NSSS) and ensure the full implementation of it.

7. Education, leisure and cultural activities (Articles 28, 29, 31)

7.1 Measures taken on the concluding observation

The GoB has mentioned that development plans with education have been given the highest priority in public sector investments. The GoB also has mentioned about the adoption of education policy in 2010, process of adopting the National Skills Development Policy, increase of the enrolment and retention rate etc.

7.2 Legal and policy options to ensure the right to education, including vocational training

In the **Concluding Observations 2009**, while noting the progress made in increasing primary school enrolment, reducing gender gap and expanding programs supporting the access of marginalized groups of children living in poverty to school, the Committee expressed concern over various issues, including the length of compulsory education covering five years only; differences among parallel educational systems; absence of early childhood development programs; the hidden costs of education; lack of materials and equipment; marked disparities in access to education among the regions and poor quality of education provided in many schools. In addition, the Committee was concerned at the reported mistreatment of children by their teachers and frequent cases of bullying and sexual harassment, particularly of girls, at school and on the way to school; the lack of separate sanitation facilities for girls and boys; extremely low rate of primary

³² <http://childrights.thedailystar.net/2013/02/whither-fund-utilisation-accountability/#more-170>

school completion, and very low enrolment in secondary school; the inadequate facilities for vocational education and training, including for children who dropped out of school before completion; lack of coordination and equivalencies between the formal and non-formal educational programs, and still low allocation for education in the budget of the State party. The Committee made various recommendations including to consider **extending the length of compulsory school** in the country; and to improve the quality of education; to **increase transition rate to secondary school and support girls** to continue education at the secondary level; to **provide more vocational education and training**, including for drop-out children, and establish formal and non-formal facilities for combining work and education; to **effectively level out the access and quality disparities of the educational system** across the regions of the country, with special attention to less developed regions; to **better equip schools with educational materials**, adequate sanitation facilities for girls and boys and to conduct vigorous **awareness-raising campaigns in schools, communities** to combat the mistreatment of children and prevent bullying, sexual harassment of children in schools and on the way to school, especially of girls.

In the **Fifth Periodic Report**, The GoB stated that the Constitution of Bangladesh guarantees the fulfilment of basic rights, including education for all citizens. In light of that the GoB adopted the Compulsory Primary Education Act to making sure that all school aged children are enrolled in school. The Bangladesh Non-formal Education Act also provides education options for drop out children through combining work and education. The Education Policy 2010 explicitly mentioned the importance of compulsory education for all children. The National Skills Development Policy provides options for vocational education, with special focus for drop out and underprivileged children. The Labour Act 2006 and the National Child Labour Elimination Policy 2010 prohibits children's engagement into labour before completing the compulsory primary education.

The Periodic Report claimed that The GoB is fully committed to alleviating existing problems in respect of management and quality through reforms across the education system. In order to address issues at the secondary and higher levels, The GoB has developed a medium-term framework for the secondary education sub-sector, focusing on quality improvements, policy measures and specific actions needed to reform the system. The main objective of reforms is to address systematic governance issues aimed at raising the quality and cost-effectiveness of service delivery and to improve equity of access in secondary education. Regarding Vocational and Technical Education, the report stated that certificate level courses in various trades and skills are offered in approximately 100 public sector institutions and some 1,500 non-government institutions.

The Coalition praises the progresses made in this sector. However, some challenges still remain. Dropout rate in secondary education especially for girls remains much higher than for boys. Enrolment of children into pre-primary schooling considered being the foundation of and key to primary education is dismally low with significant variation among geographical regions, between rural and urban, and between slums and non-slums within urban settings. Only about 13.42 per cent of children aged five enrolled in pre-primary school in 2010. This means that about 3.41 million preschool aged children are not enrolled in pre-primary schools. Net enrolment ratio at primary education was 94 per cent in 2010. This implies that about 1.16million children (6-10 years old) did not enrol in age specific appropriate grades. Of those enrolled, 32.8 per cent (5.97million) of school aged children do not complete the full primary schooling cycle. About 52.6 per cent (9.05 million) of the secondary school aged children did not enrol in age specific appropriate grades in 2010.10 MICS 2009 shows that 3.5 per cent of children who attended secondary school in 2008 discontinued in 2009. Female dropout rate in rural areas was higher than their male counterparts (4.1 versus 3.0 per cent).³³ Study conducted by NCTF revealed that the enrolment and drop out scenario in the marginalized areas is much worse. The study has found that there is no school in 319 villages of Chittagong Hill Tracts (CHT).³⁴

The Coalition emphasizes that education significantly contributes to the elimination of child marriage. A study shows that around 86% women aged between 20 and 24, who did not go to school were married off at early

³³ Ibid

³⁴ Our Story, July-December 2011

age.³⁵ Any special attention to address the transgender children's education disparity has not been seen. Generally their sexual identity exposes at the age of puberty and humiliation starts against them by all including schools. Thus full life cycle discrimination begins. Ensuring equal opportunity could have allowed them to be more capable in life.

7.3 Quality of education

In the Fifth Periodic Report, The GoB has claimed that several steps has been taken to ensure quality of education, including modernizing the curriculum, texts pedagogy and examination techniques, inclusion of Information Communication Technology (ICT), improvement of capacity of the teachers, modernization of madrasa education etc.

The Periodic Report has not mentioned anything about invisible expenditures in the education sector although research has found it as the main barrier for improving quality of education. Private coaching at school premises and outside school is increasing. In many cases, teachers are not providing proper lessons within the classroom and encouraging students to take private coaching with them. Increasing use of note books, where simple question and answer approaches to teaching can be applied with rote learning, instead of text books, where more and deeper engagement is required, is another threat to the quality of education. In a study conducted by the Child Parliament³⁶ 86.4% students said that their teachers push them to purchase guide books. The quality aspects of primary education continue to pose a big concern to stakeholders, especially in public schools. The Education Watch 2008 report demonstrated that children who completed grade five achieved only 18.7 out of 27 'term competencies'.³⁷

The generally poor quality of education is more so for girls. Girls receive less attention from teachers, are less likely to have their experiences reflected in school textbooks, do not have adequate classroom facilities. Moreover in general, families spend more money on their sons' educational needs than their girls', because boys education is perceived as an investment in the parent's future, but girls education is not valued, or only valued in terms of raising her marriage capital.

7.4 Cultural rights of children belonging to minority groups

The Fifth Periodic Report has stated that, the constitution, all relevant laws and policies guarantee the equal rights of all children including children belonging to minority groups. Furthermore, the Report has mentioned about various events where the children belonging to minority groups take part in cultural activities.

However, the Coalition takes note that the Fifth Periodic Report has not mentioned about any challenges to ensure that all children can equally enjoy their cultural rights. Cultural rights are often linked to religious practices, so such challenges include, for example, the ease and accessibility to services and spaces that Muslims enjoy whereas other religious minorities may not. The Periodic Report has not also mentioned about any effort that promotes the cultural rights of children belonging to minority groups. Furthermore, The GoB has described 'cultural rights' merely as participation in 'cultural activities' in the report. However, the Coalition believes that protection, preservation and celebration of cultural rights is also important, however the Report does not address this. The Periodic Report has not mentioned if the GoB has undertaken any initiative to protect the cultural rights of every group through laws, policies and programs.

7.5 Human rights and civic education

The Fifth Periodic Report has mentioned that a chapter on Human Rights has been included in all text books, which is commendable but it is unclear how this is being taught. The Report also says that children from disadvantaged families do not have the opportunity to learn civic and human rights from the family because their families are not aware of them themselves, but there is no mention about any plan to address this challenge. The Report has also stated that the print and electronic media have been slow in responding to the needs of children's education on human and civic rights. But The GoB has not mentioned why the state run Bangladesh Television is not conducting programs to create awareness on human rights. Also, human rights and civic education should be focused in co-curricular activities.

³⁵ Joint survey by Plan International Bangladesh and ICCDR-B, July-August 2012

³⁶ An initiative to provide children the opportunity to speak out and press for change.

³⁷ http://www.unicef.org/bangladesh/Tables_13.pdf

7.6 Rest, play, leisure, recreation and cultural and artistic activities

The Committee expressed concern in its **Concluding Observations 2009** at the limited number of leisure, recreational and cultural facilities for children of all ages, including playgrounds and sports facilities in school. For out-of-school children the committee recommended **to improve children's access to quality recreational and sports facilities, cultural activities and other leisure facilities** and encouraged the State party to allocate adequate human and financial resources to the implementation of the right to rest, leisure and play.

The **Fifth Periodic Report** highlighted that the GoB has been implementing several activities with regard to recreation, cultural and artistic activities for children including cultural training throughout the country to develop children's talent and also to culture their finer aspects of life. Bangladesh Shishu Academy is working in different areas for overall development of children. The areas include Music, Dance, Painting, Acting, Musical Instrument playing, Recitation, sports, Information technology, Children film, Children publication, Children library, Children Museum, Debate etc. Recently Early childhood development becomes an important area of activities of Bangladesh Shishu Academy.

However, in reality there is shortage of equipment for indoor games in many schools. It is commonly believed that outdoor fields and open spaces are increasingly being grabbed for business purposes, such as being rented out by the school for lengthy fairs and other market-type activities especially in the lead up to major festivals. Further, it is perceived that there are no facilities for sports or games for girls and even if it is there, it is insufficient or inadequate. Many cultural organizations have been closed because of financial crisis, political rivalry among the organizers and other reasons. With regard to the outreach of Bangladesh Shishu Academy, the Coalition notes that it mainly reaches the urban children as it has offices in district headquarters but fails to reach the rural children as it has activities only in 6 upazillas (sub-districts). Therefore, children especially in remote and hard to reach areas do not benefit from even this outlet and resource.

Recommendations

- The GoB should formulate Integrated Education Act at the earliest under which Right to Primary Education will be ensured.
- The GoB should strengthen its efforts to prevent dropout rates from school, to reduce the teacher student ratio by ensuring more qualified teachers are available, and provide more vocational education and training to improve the functional utility of secondary education, including for children who have dropped out, and establish formal and non-formal facilities for combining work and education
- The Budget allocation for education needs to be increased in order to improve attendance among the children at Monga devastated, hill and coastal areas and also to improve the infrastructure to ensure quality of education including for children facing climate change vulnerabilities and shocks.
- Teachers need to be trained to act more sensitively/responsive towards the rights of the children, including in the context of existing socio-cultural norms, in order to be able to adopt and exercise alternatives to physical and humiliating punishment.
- The Bangladesh Shishu Academy, whose responsibility is to provide support for the mental growth and merit of children, need to be provided more resource and be encouraged to increase communication with local schools and madrashas.
- The Government should support local theatre groups and cultural organizations and should promote the importance of culture and the arts, and also children's involvement in these, in order to better ensure there is an enabling environment for children to organize and participate.

8. Special protection measures (Articles 22, 30, 32, 33, 34, 35, 37, 38, 39)

8.1 Measures taken on the concluding observation

With regard to the measures taken on the concluding observations, the Fifth Periodic Report has mentioned its initiatives for refugee children, to address child labour, trafficking and projects and activities for street children and for the social protection of children. The Fifth Periodic Report has mentioned that a Child Labour Unit (CLU) has been established in the Ministry of Labour and Employment (MOLE) to plan and monitor of all child labour related interventions by The GoB and NGOs. The CLU has developed a Child Labour Information

Management System (CLMIS) as part of data collection and monitoring mechanism. The Report has also mentioned that The GoB is preparing ground to ratify ILO Convention No 138 on Minimum Age for Employment.

8.2 Refugee children

In the **Concluding Observations 2009**, the Committee noted that Bangladesh is not a party to any international or regional treaty relating to refugees nor does it have any legislative or administrative provisions for refugees. The Committee was concerned that the State party has only agreed, in principle, to issue birth certificates to all children registered as refugees in Bangladesh. While noting the position of the State party to only grant refugee status to the *Rohingya* children from Myanmar, the Committee was concerned about these and other groups of refugee children such as the *Bihari* who have difficult or no access to services. The Committee recommended to **establish national legislation and procedures** to allow immediate access to relevant procedures determining refugee status to all refugee children and their families; to **consider allowing children residing in the refugee camps and their families** to access, inter alia, education, and continue to ensure that all refugee children and their families have adequate access to better health and nutrition services, protection against violence and that those who are particularly at risk are offered support; to address the concerns of approximately 100,000 – 200,000 *Rohingya*, including children, not registered as refugees but who reside in the country for similar reasons as the registered refugees in official camps and to provide them with, at a minimum, **legal status, birth registration, security and access to education and health care services**; to consider **ratifying the 1951 Convention** relating to the status of Refugees; to **seek international assistance from the** Office of the United Nations High Commissioner for Refugees (**UNHCR**) and **UNICEF**.

The **Fifth Periodic Report** highlighted different measures taken for the refugee children limiting to the children residing at the refugee camps only. The report claimed that- all the registered *Rohingya* refugee children have been provided with access to basic education through establishing 21 schools in two refugee camps. Children born in refugee camps get registered and enjoy all facilities in accordance with the CRC. Children and their families have easy access to health care services inside the camps, as well as in the local and secondary medical facilities.

The Coalition notes that the Fifth Periodic Report has not touched upon national legislation or procedure to determine refugee status to all refugee children or their families or has not made specific commitment to ratify 1951 Refugee Convention. The quality and accessibility to education and health facilities is dismal along with food, housing and other rights of the children in the refugee camps.

8.3 Children in armed conflict, including physical and psychological recovery and social reintegration

The Fifth Periodic Report has mentioned the ratification of the Optional Protocol (OP) to CRC on the involvement of children in armed conflict and stated that there was no such incidence in Bangladesh where children were involved in armed conflict.

8.4 Economic exploitation of children, child labour and minimum age for employment

In its **Concluding Observation 2009**, the Committee expressed concern at the continuing high incidence of child workers in five selected worst forms of child labour- namely, welding, auto workshops, road transport, battery recharging and recycling, and work in tobacco factories. The Committee also expressed concern at the lack of enforcement mechanisms of specific laws to protect child workers, absence of mechanisms to monitor child workers' working conditions, insufficient awareness among the public of the negative effects of child labour and its worst forms, and the very limited data on the number of children affected. Moreover, the Committee noted that girls engaged as child domestic workers are more vulnerable to violence and exploitation. Therefore the Committee recommended to **enforce the law to prohibit explicitly employment of children** under 18 in hazardous work; improve **data collection and monitoring mechanisms** in order to enforce existing labour laws and implement policies to protect children from economic exploitation; consider **approval of the National Child Labour Policy 2008**; consider **ratifying the International Labour Organization (ILO) Convention No. 138 (1973)** on the Minimum Age for Admission to Employment;

The Fifth Periodic Report has stated that several steps were taken to prevent and eliminate child labour, especially hazardous forms of child labour in terms of policy formulation and implementation of projects and

programs. The Child Labour Elimination Policy (NCLEP) was adopted in 2010. The NCLEP set the minimum age for employment at 14 years and it prohibits children's engagement in hazardous work below the age of 18 years. A National Plan of Action has been adopted to implement the NCLEP. Revision of the Labour Act 2006 is almost completed. The new national child labour survey has been initiated with technical support from ILO. It is expected that the new figures and updated situation of child labour will be available in early 2013. The final list of hazardous work for children has been drafted and will be approved soon. With support from ILO a Child labour Unit (CLU) has been established in the Ministry of Labour and Employment (MOLE) to monitor all child labour related interventions by the government and NGOs at local and district level. The CLU has developed a Child Labour Information Management System (CLMIS). The issue of child labour has been incorporated in all major national development plans, including SFYP.

The Coalition notes that children are mainly engaged in hazardous work due to financial reason, as they need to support their parents. The demand for child labourers is also high as their wages are less than the adult and they can be easily exploited. The huge number of children (mainly girls) working as domestic workers are at high risk of sexual and physical harassment and abuse. According to Bangladesh Statistical Bureau, the number of domestic workers amounted to 331,000 in 2006. A study by Ain o Salish Kendra (ASK) estimates- there are 400,000 domestic workers in Bangladesh. According to a survey conducted by Nari Maitri, 95% of domestic workers were physically or sexually abused.

8.5 Children in the illicit activities, including production and trafficking of narcotic drugs

The Periodic Report has acknowledged that despite specific laws and regulations in place to prevent children from production and trafficking of narcotic drugs, the trend of children's involvement with such illicit activities is on the rise. The report stated that, Department of Narcotics Control (DNC) with the help of law enforcing agencies is fully vigilant to the illicit production and trafficking of narcotic drugs and substances with special focus on involving children in such illicit activities. Side by side, motivational campaigns are being conducted by the relevant ministries and departments to create mass awareness throughout the country. Apart from the GOB initiatives many national and international NGOs have been implementing rehabilitation and awareness raising programs in the targeted areas.

8.6 Sexual exploitation and sexual abuse

In the **Concluding Observations 2009**, the Committee noted the adoption of the regional strategy for seven countries of the South Asian Association for Regional Cooperation (SAARC) to combat child sexual abuse and sexual exploitation of children by Bangladesh and the enactment of the Suppression of Violence against Women and Children Act, 2000. Nevertheless, the Committee remained concerned that children continue to suffer sexual exploitation and abuse and recommends undertaking a **study to assess the scope, nature and causes of sexual abuse** in order to develop an effective comprehensive strategy. Also recommends to develop, reform and strengthen **appropriate legislative measures** to address the issues of sexual abuse and sexual exploitation; to take appropriate measures to **ensure the prompt prosecution of perpetrators** of sexual offences against children; to ensure that **child victims of sexual exploitation or abuse are not criminalized or penalized**; to take **appropriate legal and other measures** to prevent sexual exploitation and prostitution of children; to **train law-enforcement officials, social workers, judges and prosecutors** on how to receive, monitor and investigate complaints, and in a child-sensitive manner that respects confidentiality and to prioritize recovery assistance and ensure that **education and training, as well as psychological assistance and counselling**, are provided to victims;

The **Fifth Periodic Report** mentioned about the enactment of several legislations to protect children from sexual abuse and exploitation which include Domestic Violence Act, 2010, Human Trafficking Prevention and Repression Act, 2012 and Pornography Control Act, 2012. The report has also mentioned about the Central Cell to render all kinds of support to the women and children who have been victims of abuse and exploitations, ensuring coordination of activities for preventing violence against women and children and monitoring implementation of these programs.

The Coalition welcomes that the Fifth Periodic Report has acknowledged that there are still some challenges for the GOB to fully prevent sexual abuse and exploitation against children for various social and economic factors as well as failure to apply the laws appropriately and adequately. A recent worrying trend is that pornography has become a tool for sexual exploitation and abuse. The perpetrators are rarely punished.

Victims are reluctant to file complaints because of weak legal protection, social stigmatization and the fear of further abuse.

8.7 Sale, trafficking and abduction

In the **Concluding Observations 2009**, the Committee welcomed the formulation of the National Plan of Action against Sexual Exploitation and Abuse of Children, including Trafficking (NPA-SEACT). However, the Committee is concerned at the lack of implementation of the Plan and the lack of information on the sale of children and recommended that the State party concentrate its efforts to combat the sale of children and trafficking and inter alia ensure that **child victims of sale and trafficking are not criminalized**; strengthen **partnerships with the community, relevant NGOs and international development partners** to provide child victims of trafficking with adequate recovery and social reintegration services and programs; undertake an in-depth **study on the trafficking in children** to assess its scope and root causes and enable effective monitoring, and adoption of measures to prevent, combat and eliminate it; **exchange information and expertise among relevant ministries, national and international organizations** and improve coordination and the availability and reliability of data, disaggregated by age, sex, and ethnic and socioeconomic background, on children who are sold or trafficked within the State party or to neighbouring countries; **consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**, supplementing the United Nations Convention against Transnational Organized Crime and **seek technical assistance** from, among others, ILO, the United Nations Office on Drugs and Crime (UNODC), and UNICEF.

The **Fifth Periodic Report** highlighted the enactment of the Human Trafficking Deterrence and Suppression Act, 2012 as the most significant achievement. The Act criminalizes all forms of human trafficking both internal and transitional human trafficking. It provides for the deterrence of the heinous crime of trafficking mainly through providing effective prosecution of the offence and a protective regime for safeguarding and rehabilitating the victims. Moreover, this is the first law in Bangladesh to include labour trafficking meaning trafficking in persons for the purpose of exploitation through labour. However, the law strikes the balance between migration for development and the need for controlling trafficking under the guise of migration. In addition, the Act provides an inclusive and specific definition of human trafficking in men, women and children, stern punishment for the trafficking offence including death penalty and a special tribunal for the prompt trial of trafficking offences with wide powers. The report has also highlighted many other initiatives like the Monitoring Cell for Combating Trafficking in Women and Children at Police headquarters, Alliance to Combat Trafficking in Women and Children (ACTWC), Inter-ministerial Vigilance Task Force etc and focused on various awareness raising campaigns.

However, the Coalition is concerned that the Fifth Periodic Report has not put focus on the challenges of the reintegration of the trafficked children in the mainstream society and the poor implementation of the laws that allows the traffickers to continue their illegal activities. The GoB has not made any commitment to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons in line with the recommendation.

The Coalition is also concerned with the slow implementation of the trafficking act. No rules adopted yet (sec. 46-1), no agency established (sec 43), no obligatory measures for the foreign missions, "initiatives" for repatriation is a vague term (sec 33-2), Sec 12 and 13 is detrimental to the rights of the sex workers and also to the HC verdict as in the case of Bangladesh Society for the Enforcement of Human Rights and others Vs. Government of Bangladesh (Writ Petition No. 2871 of 1999, 53 DLR, HC Division) the High Court decided that "Prostitutes initially get themselves enrolled with the local administration expressing the desire to be prostitutes and get themselves confined to the brothels and get the required protection to continue in profession by the local administration whereby they are maintaining their livelihood which the State in the absence of any prohibitive legislation has a duty to protect and a citizen has the right to enforce that right".

8.8 Street children and their rehabilitation

In the **Concluding Observations 2009**, the Committee expressed its concern over the rising number of children living or working in urban centres, notably in the capital city. The Committee stated that these children are prime targets of organized child trafficking rings; they are susceptible to abuse and are often charged with the crime of vagrancy and confined in vagrant homes and shelters that are not suitable for children. The Committee recommended that **policies to address the issue of increasing numbers of children** living or working in the streets focus not only on the economic aspect, but deal with social protection

issues targeting the abuse, exploitation, and violence against these children. The Committee also recommends that the State party take urgent measures to ensure access to health services, education, and shelter for children in the streets.

The **Fifth Periodic Report** stated that, in order to ensure protection of children living in the street, the government has implemented a Project titled “Protection of Children at Risk (PCAR) from 2007 to 2011 with the technical and financial support from UNICEF. Under the project a total of 36 (18 full-time and 18 day-time) Drop- in- Centres in 6 divisional cities has been established. 33,034 children received life skills training, 2,730 children received vocational training and 2,117 children were provided with alternative livelihood or non-hazardous job. 13,979 children received full time social protection services and 2,124 children were reintegrated with their families. 1192 parents received cash support to set up their income generating projects. The report also mentioned about government’s Early Learning and Childhood Project (ELCD) under which a total of 8771 pre-primary education centres have been established throughout the country and 0.6 million children (aged 4-5 years) receiving pre-primary education from these centres.

The Coalition notes that, according to UNDP, the total number of street children in Bangladesh is over 400,000. The street children who sell flowers and other small goods in Dhaka streets have to pay 10% of the money they get to the local strongmen. Girls pay almost 30% of their earnings as they have to pay local strongmen, policemen and also to boy street vendors.³⁸ Street children are exposed to various dangers including sexual exploitation, drug addiction and other rights violations. These children are also used in drug trade. A newspaper report has mentioned that about 250,000 children are involved in begging only in Dhaka.³⁹ A joint study by International Institute for Environment and Development (IIED) and Plan International found that street children and children living in slums in Dhaka are among those most vulnerable to rights violations, everyday hazards, disasters and climate change.⁴⁰

8.9 Children in emergency situations

The Fifth Periodic Report has stated that current policies of the GOB on emergency situations involve care for children only when they are orphaned. However, with assistance from UNICEF and other development partners, the GOB took a more holistic approach in response to Cyclone Sidr in 2007. This approach targeted all vulnerable children and involved basic care and psychological, recreational and learning support. The report has mentioned about the program titled “Amader Shishu” (Our Children) with assistance from UNICEF. This program was initially implemented in 3 coastal districts affected by cyclone sidr, but now being expanded to other parts of the country.

8.10 The Administration of juvenile justice and minimum age of criminal responsibility

In the **Concluding Observations 2009**, the Committee appreciated the efforts of the State party to address the previous concluding observations, including the removal of some children from adult jails, the establishment of juvenile development centres and the increased training for judges, magistrates and law enforcement officers concerned with juvenile justice. However, the Committee expresses great concern over information indicating that children younger than 15 years old had been condemned to life sentences and children younger than 18 years old to the death penalty; that the legal age of criminal responsibility has been raised to only 9 years old. The Committee reiterates its previous recommendation that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards. In this regard, the Committee recommends that the State party inter alia ensure with immediate effect that **neither the death penalty nor life sentence are imposed** for offenses committed by persons under 18 years of age; **raise the minimum age of criminal responsibility** to at least 12 with a view to raising it further as recommended in the Committee’s general comment No. 10 (2007) on the rights of the child in juvenile justice; consider the **establishment of specialized juvenile courts across the country**, the appointment of trained juvenile judges and offer training for professionals; **limit by law the length of pre-trial detention of children**; continue efforts to ensure that children deprived of liberty are **separated from adults, that they have a safe, child-sensitive environment in police custody**, and that they maintain regular contact with their families, and to review the decision of detention with a view to its withdrawal; adopt a global

³⁸ ‘Goons rob street children in Dhaka’, Dhaka Tribune, 10 February 2014

³⁹ Daily Jugantar, 29 August 2011

⁴⁰ Daily Star, 1 April 2014

and national **policy in prevention and promotion of alternative measures** to detention such as diversion, probation, counselling, community service or suspended sentences, wherever possible; provide children, both victims and accused, with **adequate legal and other assistance** at an early stage of the procedure and throughout the legal proceedings; establish an independent body for the **monitoring of detention conditions** and receiving and processing complaints by children in detention.

The **Fifth Periodic Report** mentioned that, new legal framework has been proposed to improve the administration of juvenile justice. In line with the CRC and other international standards, diversion, and other alternative to prevent and/or reduce deprivation of liberty of children coming in conflict with the law has been incorporated in the new law.⁴¹ Besides, a National Task Force has been working to release children from prison. The Fifth Periodic Report stated, Juvenile Courts exist in each district to deal with the children who come in conflict with the law. The Supreme Court of Bangladesh has asked the entire district to designate one judge at each tier of the lower judiciary as the juvenile court judge. The new law has proposed to appoint one judge with appropriate jurisdiction to deal with all cases of children in a district ensuring child friendly environment. Child friendly police officers will be assigned at all police stations across the country and specialised police unit will be set up at the district level to deal with children in conflict with the law.

However, the Coalition remains concerned that the minimum age for criminal responsibility remains at nine and the rebuttable presumption of innocence exists for 9-12 year olds in the Children Act 2013.

8.11 Arrest, detention and imprisonment of children

The Fifth Periodic Report has stated, a national task force has been working to ensure that children do not go to adult prison and those who are already there be released without delay. As of May 2012, according to the Report, a total 53 children under 18 years of age were in various prisons of the country, of them 5 were girls. As of May 2012, there were a total of 447 children including 42 girls in three children detention centres of the country. According to the new law (Children Act 2013), diversionary measures can be taken any stage of the legal proceeding. Victim offender mediation, family-group conference can be organized as restorative justice measures as per the new law.

The Coalition notes that the treatment of the children who comes in conflict with the law is an area of concern. Even a study commissioned by the police in 2008 concluded that 'Once under police custody, the children face grave situations and are treated harshly very often. Various news reports indicate that tying the children with ropes and placing handcuffs on them is common even though the latter is against police regulations. In order to find clues for crimes and to trace criminals, the police often verbally and physically abuse the children.'⁴²

8.12 Sentencing of children and existence of alternative sanctions

The Fifth Periodic Report has stated that death penalty and life imprisonment with possibility of release for children has been prohibited in the new law (Children Act 2013). Alternative sanctions such probation of good conduct, release at the care of fit persons have been introduced. Although death penalty and life imprisonment without possibility of release can be imposed on children between 16 and 18 years as the definition of child according to the current law is any person below the age of 16, no child below the age of 18 years has so far been executed.

8.13 Training for professionals involved with the system of juvenile justice

The Fifth Periodic Report has stated that the Judicial Administration Training Institute (JATI) under the Ministry of Law has been organizing regular on the job special training juvenile justice for judges and magistrates with the support from UNICEF. The Police Academy of Bangladesh also provides regular training of police personnel at on justice for children, the Legal Education and Training Institute provided training to the selected lawyers enrolled with all 64 District Bar Associations. The Social Workers and the Probations Officers have been trained on justice for children and basic and professional social services. However, the

⁴¹ The Children Act 2013, yet awaiting to be enacted

⁴² Bangladesh Police Assessment Study for Children (2009) Available at: <http://www.police.gov.bd/index5.php?category=230>

Coalition emphasises that the impact of all these trainings need to be assessed and the most important is to put in place a strong accountability mechanism to monitor and ensure the implementation of juvenile justice.

Recommendations

- The GoB should establish Child Protection Cluster in all districts and sub districts with the capacity to track down child casualties and meet the protection needs of children during natural disaster and emergencies.
- The GoB should introduce a comprehensive database and appropriate monitoring mechanism to collect accurate information on trafficked children and to provide necessary remedies;
- Ensure further focus and resources to combat violence, stigma and discrimination against homosexual boys.
- The GoB should ensure that children residing in refugee camps, as well as children not registered as refugees get basic rights of education, access to better health and nutrition services, protection against violence, as well as the right to citizenship, nationality and registration which is provided for under the UN CRC
- Continue to implement appropriate policies and programs for prevention, recovery and social reintegration of child victims of sexual exploitation and trafficking, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children as well as the outcome of other international conferences on this issue.

Annex 1 :Member Organizations of Child Rights Advocacy Coalition in Bangladesh

<p>1. ActionAid Bangladesh (AAB)</p>	
<p>2. Ain O Salish Kendra (ASK)</p>	
<p>3. Child Rights Governance Assembly (CRGA)</p>	
<p>4. Education and Development Foundation (EDUCO)</p>	
<p>5. National Girl Child Advocacy Forum (NGCAF)</p>	
<p>6. Plan International Bangladesh (PIB)</p>	
<p>7. Save the Children in Bangladesh (SCiB)</p>	
<p>8. Terre des Hommes-Netherlands (TdH-NL)</p>	
<p>9. World Vision Bangladesh (WVB)</p>	

Annex 2: Corporal punishment in present legal regime- An analysis by BLAST

Legality of corporal punishment at home: Article 89 of the Penal Code (1860) states: “Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause...”. Provisions against violence and abuse in the Penal Code, the Children Act (1974) and the Domestic Violence Act (2010) are not also interpreted as prohibiting corporal punishment in childrearing

Legality of corporal punishment in schools: As was noted, government guidelines prohibit corporal punishment in all schools, but prohibition is yet to be confirmed in legislation.

Legality of corporal punishment in the penal system: Corporal punishment (whipping) is lawful as a **sentence for crime** for males. Under the Code of Criminal Procedure (1898), boys under the age of 16 may be whipped “with a light rattan not less than half an inch in diameter” up to 15 “stripes”, older males up to 30 stripes (article 392). However, whipping may not be inflicted on females or on males sentenced to death or more than five years imprisonment (article 393). The Penal Code does not provide for judicial whipping, but under the Whipping Act (1909) whipping may be given in lieu of or in addition to the punishments specified in the Penal Code for specific offences committed by persons over 16 (articles 3 and 4). The Act provides for juvenile offenders (under 16) to be whipped in lieu of other punishments for a wider range of crimes under the Penal Code and other laws (article 5). Whipping is a sentence for offences under article 23 of the Cantonments Pure Food Act (1966), articles 9, 10 and 12 of the Suppression of Immoral Traffic Act (1933) and, for boys under the age of 12, article 130 of the Railways Act (1890). Corporal punishment is also commonly ordered by traditional village mediation councils (shalish), particularly against girls and women and are often issued as fatwas under Shari’a law, although any extra-judicial punishment were ruled unlawful by the High Court 2010. Corporal punishment is also lawful as a **disciplinary measure** in penal institutions, including certified institutes, approved homes, prisons and vagrant homes. Rule No. 24 of the Children Rules lists sanctions available for infringements of discipline, including “caning not exceeding ten stripes”. The Prisons Act (1894) authorizes whipping as a punishment for breaches of discipline by male prisoners, up to 30 stripes (article 46); for boys under 16 it must be inflicted “in the way of school discipline” (article 53).

Legality of corporal punishment in the alternative care setting: Article 89 of the Penal Code allows for corporal punishment in alternative care settings. The current draft of the Children Bill, however, includes explicit prohibition of corporal punishment in care institutions.

Annex 3: BANGLADESH: Ratification of International Human Rights Treaties and Conventions

Name of HR Treaty/Convention	Status of ratification/accession
Convention on the Prevention and Punishment of the Crime of Genocide 1948	Acceded on 5 Oct 1998
International Convention on the Elimination of All Forms of Racial Discrimination 1966	Acceded on 11 Jun 1979
International Covenant on Economic, Social and Cultural Rights 1966	Acceded on 5 Oct 1998
International Covenant on Civil and Political Rights 1966	Acceded on 6 Sept 2000
Two Optional Protocols to the International Covenant on Civil and Political Rights 1966	-
International Convention on the Suppression and Punishment of the Crime of Apartheid 1973	Acceded on 5 Feb 1985
Convention on the Elimination of All Forms of Discrimination against Women 1979	Acceded on 6 Nov 1984*
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women 1999	Ratified on 6 Sep 2000
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Acceded on 5 Oct 1998
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2002	-
Convention on the Rights of the Child 1989	Ratified on 3 Aug 19908*
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2000	Ratified on 6 Sept 2000
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict 2000	Ratified on 6 Sept 2000
Optional Protocol to the Convention on the Rights of the Child on a communications procedure 2011	-
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	Ratified on 24 Aug 2011
Convention on the Rights of Persons with Disabilities 2006	Ratified on 30 Nov 2007
Optional Protocol to the Convention on the Rights of Persons with Disabilities 2006	Acceded on 12 May 2008
International Convention for the Protection of All Persons from Enforced Disappearance 2006	-

Source: www.ohchr.org

*kept reservations

Annex-4: List of all recommendations

- The Government of Bangladesh should make specific and time bound commitments to withdraw its reservations to the two articles of the CRC.
- The GoB should initiate a coordinated process to formulate and amend laws where necessary and also to ensure effective enforcement of existing laws and policies related to child protection.
- The GoB should take necessary measures to establish a Children's Ombudsman with adequate resources and power to specifically deal with complaints on child rights and violations, and to provide remedies for such violations.
- The GoB should establish a separate Directorate/Division for Children within the Ministry of Women and Children's Affairs, with adequate resources and to reduce duplication of efforts, for effective and efficient use of limited resources and to strengthen interventions for the best interests of children
- The GoB should make specific commitment in favour of introducing child budgeting, and improve the quantity and quality of spending on children.
- The GoB should increase the share of public resources available for programmes for children and lessen the reliance on foreign aid.
- Ensure that the development of the national budget takes a child rights approach, including the use of indicators, and a tracking system that make spending on children visible throughout the budget
- The GoB should increase the age of criminal responsibility from 9 years to 12 years to ensure the conformity with international standards.
- The GoB should continue and strengthen efforts to ensure public perceptions align with international standards; that is, people accept and believe that anyone under 18, including those who are 18 years old, are still considered children.
- The minimum age for marriage should remain as 21 years for boys and 18 years for girls.
- The GoB should define 'best interests of child' in national legislation and outline a specific plan and framework to measure how far government initiatives have impacted on achieving those 'best interests.
- The Government should take adequate and effective measures, including of setting up strong monitoring mechanisms to address persistent discrimination and reduce disparities in the family, schools and other settings, and in particular among marginalized and excluded children, including girls, children of ethnic minorities and refugee children.
- The GoB should set up mechanisms to ensure that the voices of all children, including those from poor families, hard to reach areas, and indigenous backgrounds, are reflected in a structured way so as to overcome the tokenism in current practice of participation.
- All children currently held in adult prisons should be separated from adults, and removed with the utmost expedience to a remand home or place of safety in conformity with the Children Act 2013.
- Birth registration must be ensured across the country and proper age determination procedures established and implemented in the Court system. Where a child claims to be under the age of sixteen/eighteen/nine years old (in differing scenarios), 'the benefit of doubt' should be given to the child and all the relevant protection that this brings under legislation.
- A clearer distinction must be made between measures for children in need of protection and those in conflict with the law to ensure that those in need of protection are not taken through the criminal justice system. Similarly, status offences such as begging and prostitution should be identified as welfare issues and children engaging in these activities should be treated by the social welfare system and not the criminal justice system.
- More juvenile courts with judges and judicial officials trained in child-rights approaches should be created that can hear children's cases on a priority basis.
- The GoB should ensure that the courts be supported in their decision-making by social workers, probation officers or other suitable persons who can liaise with family and community and identify community-based alternatives to pre-trial detention.
- The GoB should revisit its policy to bring children working in the informal sector within the ambit of law and take effective steps to withdraw all children from hazardous work.
- The GoB should facilitate and ensure the implementation of children's right to be heard in accordance with Article 12 of CRC and promote children's meaningful participation at all levels of state, family, school and community within formal as well informal spaces and governance arrangements.

- The GoB should put in place a monitoring mechanism to better ensure that all cases of corporal punishment are investigated and perpetrators are brought to justice.
- The GoB needs to develop effective promotional materials and campaigns outlining the negative effects of physical and humiliating punishment on children. This information needs to be circulated and disseminated to all citizens in an accessible manner and which provides clear details of illegality of physical abuse of children.
- The GoB should intensify its efforts with strong monitoring and extending partnerships with NGOs to increase alternative care facilities including providing additional financial and human resources.
- The GoB should accelerate measures to transform care institutions into family-type environments, away from project-based approaches and through longer term planning and implementation for sustainable impact.
- The GoB should immediately draft and enact a clear and uniform law on adoption applicable to all Bangladeshi citizens, including amending the Muslim Family Law to allow Muslims to adopt children.
- The GoB should include domestic workers within the protection accorded to works under the Labour Act 2006; with a clear prohibition against employment of children below the age of 14.
- The GoB should implement a special schooling system for those children who are compelled to engage in income generating activities, including activities to reintegrate these children into mainstream schools. Vocational and/or a technical education could be initiated for children as well as special stipends program to improve the functional quality and utility of obtaining a secondary education in Bangladesh.
- The GoB and other stakeholders need to take steps to ensure necessary infrastructure and facilities in public places and business establishments including all transport, bathrooms, stairs and lifts for people with a disability.
- The GoB should take all necessary measures to increase access to free primary health services with particular attention to pre-natal and post-natal care for children and their mothers;
- The GoB should adopt more coordinated strategy to accelerate the reduction of under-nutrition, in particular stunting, in children;
- The GoB should develop a separate comprehensive policy on the critical issues affecting the rights of adolescents, especially girls, children from poor households and ethnic minorities, including mental health and reproductive health services;
- The GoB should undertake gender-sensitive awareness-raising programs, with the involvement of community leaders, parents and the general public to prevent and end harmful practices like early marriage, especially in rural areas.
- As girls are the main victims of child marriage, the GoB should enhance the stipend program (Upa-Britti) for girls. This program should also not be allocated only on the basis of merit, rather on the basis poverty in order to include the most disadvantaged children.
- The GoB needs to take measures to ensure health services for the vulnerable children in the country, especially for the most vulnerable children at the Char land, Haor and Chittagong Hill Tracts.
- The GoB should immediately finalize the National Social Security Strategy (NSSS) and ensure the full implementation of it.
- The GoB should formulate an Integrated Education Act at the earliest under which Right to Primary Education will be ensured.
- The GoB should strengthen its efforts to prevent dropout rates from school, to reduce the teacher student ratio by ensuring more qualified teachers are available, and provide more vocational education and training to improve the functional utility of secondary education, including for children who have dropped out, and establish formal and non-formal facilities for combining work and education.
- The Budget allocation for education needs to be increased in order to improve attendance among vulnerable and hard to reach children and also to improve the infrastructure to ensure quality of education including for children facing climate change vulnerabilities and shocks.
- Teachers need to be trained to act more sensitively/responsively towards the rights of the children, including in the context of existing socio-cultural norms, in order to be able to adopt and exercise alternatives to physical and humiliating punishment.

- The Bangladesh Shishu Academy, whose responsibility is to provide support for the mental growth and merit of children, need to be provided more resource and be encouraged to increase communication with local schools and madrasahs.
- The Government should support local theatre groups and cultural organizations and should promote the importance of culture and the arts, and also children's involvement in these, in order to better ensure there is an enabling environment for children to organize and participate.
- The GoB should establish Child Protection Clusters in all districts and sub districts with the capacity to track down child casualties and meet their protection needs of children during natural disaster and emergencies.
- The GoB should introduce a comprehensive database and appropriate monitoring mechanism to collect accurate information on trafficked children and to provide necessary remedies;
- Ensure further focus and resources to combat violence, stigma and discrimination against homosexual boys.
- The GoB should ensure that children residing in refugee camps, as well as children not registered as refugees get basic rights of education, access to better health and nutrition services, protection against violence, as well as the right to citizenship, nationality and registration which is provided for under the UN CRC.
- Continue to implement appropriate policies and programs for prevention, recovery and social reintegration of child victims of sexual exploitation and trafficking, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children as well as the outcome of other international conferences on this issue.