Children and Tobacco in Existing Laws, Rules and Policies in Bangladesh: A Practical Scenario

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Abstract

Children are the mind of a nation, unfortunately today's teenager is tomorrow's potential regular customer and the overwhelming majority of smokers first begin to smoke while still in their teens. The study attempts to review the children issue in the tobacco related existing laws, rules and policies in Bangladesh and explore reality in the ground. As part of this study, relevant existing laws, rules and policies in Bangladesh have been collected and reviewed from different sources including the website of ministry of law and justices as well as explored the involvement of children in tobacco related activities in Bangladesh. The study critically examined the involvement of children in every tobacco related activities in Bangladesh including cultivation, processing, production, marketing and selling. The study identifies that 'Smoking and Tobacco Prouduct Usage (Control) Act 2005 (amended in 2013)' is clearly ban on selling tobacco products to a minor (children) but it did not refers the producing and processing levels of involvement of children in tobacco. Whereas Bangladesh as a member state of UN ratified the FCTC, as a result the study partially emphasized the 'section 32 of the UN Charter on Child Rights' and 'Framework Convention on Tobacco Control (FCTC)'. Because the section 32 of the UN Charter on Child Rights' gives a list of 38 hazardous jobs banned for the children in everywhere in the world. Besides, the 'Framework Convention on Tobacco Control (FCTC)' gives the 'Article 16: Sales to and by minors' has strictly emphasized the provision of a children involvement with tobacco related activities. The study finds abusing of law and policies in the reality, children are involved in different stages of hazardous tobacco related jobs such as cultivation, processing, production and marketing at everywhere in Bangladesh Further amendment of 'Smoking and Tobacco Prouduct Usage (Control) Act 2005 and execution of related laws, rules and policies through effective monitoring along with family education, selection of good company can prevent the involvement of children in tobacco related activities at cultivating, processing, production and marketing levels in Bangladesh.

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Introduction

According to the WHO, Bangladesh is the 8th leading tobacco consumer in the world. The estimated number of current adult tobacco smokers is 21.9 million (21.2 million males and 0.7 million females) in Bangladesh (Global Youth Tobacco Survey and Global School Personnel Survey: Bangladesh, 2010). Besides, Bangladesh is the home of 6.6 million working children (Bangladesh Child Policy, 2010), accounting more than 5% of 120 million working children of the developing world (Hossain and Rahman, 2011). Although prevalence of tobacco use among students is high in Bangladesh and there is very easy access to and availability of tobacco products for students (minors) (Global Youth Tobacco Survey and Global School Personnel Survey: Bangladesh, 2010). But young people are a prime market for tobacco products and tobacco industry recruits replacement smokers from youth (Rahman and Sabur, 2015). Causes of adolescents smoking in Dhaka city are refusal of love and emotion (42%), friend incitements (29%), self-curiosity (13%) and problems of the family (11%) and at the extended family members are the highest risk groups for smoking (Huq, et al., 2011). In fact, children and teens are easy targets for the tobacco industry. They're often influenced by tv, movies, the internet, advertising, and social media by what their friends do and say. They don't realize what a struggle it can be to quit. And having smoking-related health problems like cancer, emphysema, blindness, or impotence may not seem like real concerns. Kids and teens don't think much about future health issues. While, children's involvement with tobacco-related any kind of activities (cultivating, processing, producing, buying, selling and marketing, etc.) has largely been banned in Bangladesh but in reality is different. But still tobacco factory owners are deploying children in different stages of hazardous tobacco processing and bidi production. Further, most of the children are aged from 4 -12 years old and are engaged in different stages of bidi production process. There are 35 bidi factories in the Haragaach, which is 30% of all the bidi factories in the country and the number of bidi workers in the factories is about 40,000. Among the 40,000 labors, half of them are children (50%), among the remaining 20,000, there are 12,000 females (30%) and 8,000 males (20%). Among the children, 15,000 regularly or irregularly attend school and the rest do not attend at all. According to the locals, the boys and girls who work in the bidi factories cannot cross the primary education boundary and the majority of them drop out when they are at the fifth grade¹.

¹https://allmedialink.com/half-bidi-labourers-children-bangladesh/ (visited on 22 March 2017).

So, finally the study attempts to review the children issue in the tobacco related existing laws, rules and policies in Bangladesh and explore reality in the ground.

Data Collection Method

The study has mainly focused comprehensive desk review based on secondary data sources. Data have been collected from first hand parties of secondary sources from the different sources including the website of ministry of law and justices. Besides, data have been gathered from the critical analyzed the books, journals, articles as well as related research works on online web portal, especially Google searching engine, Google scholar and unpublished thesis, reports and so on. Moreover, the study is qualitative type of nature. So, the study has been analyzed with the help 'Narrative Analysis'.

Finding of The Study

Bangladesh has a huge population of 138.6 million (2005 estimated). Nearly, 37% people aged 15 years and above (i.e. 30.9 million) use tobacco in same from the others (WHO, 2004). It is alarming condition for future generation because youth is the mind of nation. However, the study has been divided into two parts. Firstly, to know the provision of children in tobacco related issues on existing laws, rules, regulations, policies and strategies. Secondly, to explore the involvement of children on tobacco related activities i.e. producing, processing, marketing (buying and selling) in Bangladesh.

Provision of Children in Tobacco Related Issues on Existing Laws, Rules, and Policies

To find out the provision of children in tobacco related issues on existing laws, rules, and policies research carefully reviewed existing laws, rules, and policies those are imposed by Bangladesh government along with referred an international rules and regulation those are honored and ratified every independent countries in the world like Bangladesh. Following section reviewed the existing laws, rules, and policies in Bangladesh along with international arena those are honored Bangladesh.

'Smoking and Tobacco Prouduct Usage (Control) Act 2005 (amended in 2013) National Tobacco Control Act, 2005 (amended in 2013) is the 'Bible' for this issue, because it bans the involvement of children in tobacco related issues, particularly selling tobacco products in Bangladesh. 'Smoking and Tobacco Prouduct Usage (Control) Act 2005 (amended in 2013)' was accepted in the parliament and was granted by the President on 02 May, 2013 and the act is being published for the information of everyone: - ACT NO. 16 OF 2013. An Act for the Amendment of Smoking and Tobacco Products Usage (Control) Act, 2005, whereas for the purpose of fulfilling the following objectives, it is appropriate and necessary to amend the Smoking and Tobacco Products Usage (Control) Act, 2005 (Act no. 11 of 2005); it is therefore enacted as follows:-

SHORT TITLE AND COMMENCEMENT

(1) This Act shall be called Smoking and Tobacco Products Usage (Control) (Amendment) Act, 2013.

(2) The Act shall immediately come into force.

- AMENDMENT OF SECTION 2 OF ACT NO. 11 OF 2005. - In section 2 of Smoking and Tobacco Products Usage (Control) Act, 2005 (Act no. 11 of 2005) (from now on mentioned as 'the act').

Strength of the 'Smoking and Tobacco Prouduct Usage (Control) Act 2005 (amended in 2013)'

The Smoking and Tobacco Products Usage control Act, 2013 is clearly referred in the section 7 about the provisions of children involvement in tobacco related issues in Bangladesh such as- 7. ADDITION OF A NEW SECTION 6A IN ACT NO, 11 OF 2005. A new section 6a shall be included after section 6 of the above mentioned act, such as:-

"6a. BAN ON SELLING TOBACCO PRODUCTS TO A MINOR, ETC.:-

(1) No person shall sale tobacco or tobacco products to any person under the age of eighteen, or engage or cause to be engaged any such person in the marketing or distribution of tobacco or tobacco products.

(2) If any person contravenes the provision of sub-section 1, he shall be punishable with fine, which may extend to five thousand taka and if a person contravenes the provisions more than once, every time the amount of fine shall be doubled.

After 'Smoking and Tobacco Prouduct Usage (Control) Act 2005' amended in 2013, following acts is losing their functionality and government banned these acts at everywhere in Bangladesh. These acts are-

- · Railway Act 1890 (Act IX of 1890).
- The Juvenile Smoking Act 1919 (Bangal Act II of 1991).
- The Dhaka Metropolitan Police Ordinance 1976 (Ordinance No III of 1976).
- Chittagong Metropolitan Police Ordinance 1978 (Ordinance No XLVIII of 1978).

- The Khulna Metropolitan Police Ordinance 1985 (Ordinance No LII of 1985).
- The Rajshahi Metropolitan Police Act 1992 (Act XXIII of 1992).

Although, the 'Smoking and Tobacco Prouduct Usage (Control) Act 2005 (amended in 2013)' has been formulated by the government of Bangladesh, but it was directly addressed on the 'Framework Convention on Tobacco Control (FCTC), 2003'. The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first treaty negotiated under the auspices of the World Health Organization. The WHO FCTC opened for signature on 16 June to 22 June 2003 in Geneva, and thereafter at the United Nations Headquarters in New York, the Depositary of the treaty, from 30 June 2003 to 29 June 2004. The treaty, which is now closed for signature, has 168 Signatories, including the European Community, which makes it one of the most widely embraced treaties in UN history. In a historic leap towards promoting public health, the Government of Bangladesh ratified the FCTC on June 14, 2004. Bangladesh was the 1st country to ratify the convention.

Strength of the 'Framework Convention on Tobacco Control (FCTC), 2003'

Framework Convention on Tobacco Control (FCTC), 2003, is the first international treaty negotiated under the auspices of the WHO, aimed at reduce tobacco related deaths and disease, it has been totally 38 articles and Bangladesh was ratified the FCTC in June, 2004. This framework Article 16: Sales to and by minors directly and strictly referred the provision of a children involvement with tobacco related activities, it is clear at following paragraph.

1. Each Party shall adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic and national law.

These measures may include:

- a. requiring that all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age;
- b. banning the sale of tobacco products in any manner by which they are directly accessible, such as store shelves;

- c. prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors; and
- d. ensuring that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors.
- 2. Each Party shall prohibit or promote the prohibition of the distribution of free tobacco products to the public and especially minors.
- 3. Each Party shall endeavor to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors.
- 4. The Parties recognize that in order to increase their effectiveness, measures to prevent tobacco product sales to minors should, where appropriate, be implemented in conjunction with other provisions contained in this Convention.
- 5. When signing, ratifying, accepting, approving or acceding to the Convention or at any time thereafter, a Party may, by means of a binding written declaration, indicate its commitment to prohibit the introduction of tobacco vending machines within its jurisdiction or, as appropriate, to a total ban on tobacco vending machines. The declaration made pursuant to this Article shall be circulated by the Depositary to all Parties to the Convention.
- 6. Each Party shall adopt and implement effective legislative, executive, administrative or other measures, including penalties against sellers and distributors, in order to ensure compliance with the obligations contained in paragraphs 1-5 of this Article.
- 7. Each Party should, as appropriate, adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.

'Ministry of Health & Family Welfare Pictorial Health Warning (Issued Pursuant to Smoking and Tobacco Products Usage (Control) (Amendment) Act, 2013 and Smoking and Tobacco Products Usage (Control) Rule), 2015'; 'Dhaka Declaration, 2016'; 'Sustainable Development Goals (SDGs), 2016'; 'Ministry of Health and Family Welfare, National Tobacco Control Cell, Public Notice, 2016' and 'Seventh (7th) Five Year Plan (FY2016 - FY2020)' have been addressed the Framework Convention on Tobacco Control (FCTC), 2003' at different tobacco related aspects along with different issues in Bangladesh territory. Although, the government of the people's republic of

Bangladesh has been imposed a numbers of laws, rules, and policies such as 'The Juvenile Smoking Act, 1919 (Bengal Act II of 1919)'; 'Local Government Act (City Corporation), 2009'; 'Local Government (Pourashava) Act, 2009'; 'The Smoking and Tobacco Products Usage (control) Act 2005 (Amendment in 2013)'; 'The Smoking and Tobacco Products Usage (control) Rules, 2015'; The Railways Act, 1890 (Act No.IX 1890)'; 'Circular on District and upazila Taskforce Reformation from Ministry of Health and Family Welfare (MoHFW)'; 'Ministry of Health and Family Welfare, National Tobacco Control Cell, Public Notice, 2016' respectively. Unfortunately, these types of laws, rules and policies do not mentioned the children involvement in tobacco related issues.

Bangladesh is an independent nation, has ratified different rules and regulations those are imposed by UN (United Nation). In this circumstances, 'ILO Convention no 182' and 'Convention on the Rights of the Child, 1989' clearly noted the ban of children in tobacco related jobs the entire world. Along with, "the section 32 of the UN Charter on Child Rights" gives a list of 38 hazardous jobs banned for the children in everywhere in the world.

Moreover, YPSA is the pioneer non-government organization has been working along with local government for ensuring smoke free environment since 2009 in Chittagong Division. YPSA has formulated the 'Smoke Free Guideline of Local Government' and organizing tobacco control related meetings, human chain, precession and various types of awareness programs around the area.

Unlawful Engagement of Children on Tobacco Cultivation, Production, Processing and Marketing Related Activities

After imposed the 'Smoking and Tobacco Prouduct Usage (Control) Act 2005 (amended in 2013)', children involvement in tobacco (marketing) totally banned. Besides, The Section 32 of the UN Charter on Child Rights, the Government of Bangladesh has introduced a list of 38 hazardous jobs and banned children's engagement with those tasks, although working at bidi and cigarette factory lies in the fourth position of the list. Moreover, FCTC, 2003 Article 16: Sales to and by minors has banned the sale of tobacco products, tobacco sales to minors and the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco related jobs such as cultivation, production, processing and marketing at everywhere in Bangladesh,most fo them are from 4 -12 years old. For explore the reality the study used pictorial

method on production, processing and marketing i.e. selling and buying activities from authentic sources.

Pictorial Witness of Children Involvement in Tobacco Related **Activities in Bangladesh**







working at tobacco field in Daktarghata village under Kachhapia union of Ramu upzilla, Cox's Bazar



Plate Captured by authors Plate Captured by 3: *4*: authors (02.03.2017): Selling of tobacco product (15.01.2017): Children working at tobacco field in Bandarban Upazila, in Chittagong Metropolitan City.

Plate 1

The plate explore that the report of 'The Daily Orthoniti Protidin' has been published a special report on 1st May, 2014 based on the investigative work of Tobacco Industry Watch BD Team and PROGGA on 'Child Labour in Bidi Industries of Bangladesh'. The report disclosed that there are 117 bidi factories in Bangladesh and about 65,000 workers are occupied with the factories. Besides, the Haragaach bidi labour leaders and bidi factory workers it has been found that there are 35 bidi factories in the district which is 30% of all the bidi factories in the country and the number of bidi workers

in the factories is about 40,000. Among the 40,000 labours, half of them are children (50%), among the remaining 20,000, there are 12,000 female (30%) and 8,000 males (20%). Among the children, 15,000 regularly or irregularly

attend school and the rest do not attend at all. According to the locals, the boys and girls who work in the bidi factories cannot cross the primary education boundary and majority of them drop out when they are at the fifth grade.

Plate 2

The plate depicted that the Cox's Bazar, reads a report on The Daily Prothom Alo on February 12, 2015. Majority of the kids are poverty stricken and are to work on the tobacco fields to support family income. They are to work from 6.00am to 3.00pm, but are ill paid and five to six times less than adult labours rate. Adjacent villages are following the same trend of child labour. When asked about the child labour, local farmers replied that they are using kids for the lack of adult workers. The UP member of Garjania Union Parishad said that "children mostly engage into tobacco planting because of their poverty and even they miss their classes too. He also said that the guardians do not bother about the issue and many of the females and kids are getting affected with different diseases." It is reported that about 12,000 acres of lands have been used in Cox's Bazar, Ramu, Chakaria, Alikadam and the other surrounding areas and about 60,000 people are involved in the farming process and 20,000 of them are children.

Plate 3

Neloy (Pseudo Name) is a twelve years old and dropped out student from government primary school. He lives with his parents in the slum near the Chandgaon residential area at Bahaddarhat, Chittagong. His father is a van driver and mother is housemaid near the residential area. His father did not able to bear the family and his education related expenditures along with they are indifferent about the schooling him. As a result, his father took debt from local NGO for making a temporary business stall (moving on two wheels). The temporary stall set up at intersection inside of Chandgaon Residential Area. He is the owner of the temporary stall and his father pooling van in whole day. In the evening his father joins with him to continue the business. He sells tobacco (bidi, zorda and gul), tea, battle nut, battle leaf and some food items, bread, biscuit and so on. Basically, young boys, adult and old people are the customer of his business and maximum customer buying cigarette and battle leaf. Neloy said that, his business is in good position and it is helpful to continue his family expenditures. But he eagerly wants to go school but to manage family expenditure he cannot go to school.

Plate 4

The plate denoted that children are working tobacco processing related activities near the tobacco fields. It is significant that, two children are wearing school uniform among children on this plate. Basically, the tobacco fields are situated near the school along with children easily getting money from tobacco cultivators. As a result, schooling children escape from school deceived guardians and school authority. Besides tobacco cultivators easily engaged the children for the processing tobacco related activities due to cheap working cost and long working hours. Finally, today children are the potential labor for tomorrow.

Recommendations

Today children are the future of tomorrow. In the light of the above discussion, the study tries to explore some immediate measures as follows-

a. Governmental commitment of fulfilling protection rights

Government interest in, recognition of and commitment to child protection is an essential element for child protection from every hazardous job, tobacco related activities like production, processing and marketing. Besides, government and governmental officials are the lawful agencies for implementing banning tobacco related laws, rules and policies in everywhere.

b. Open discussion of and engagement with, child protection issues At the most basic level, children need to be free to speak up about child protection issues. At the national level, both media attention to and civil society engagement with child protection issues contribute child protection.

c. Legislation and enforcement

'Smoking and Tobacco Prouduct Usage (Control) Act 2005 (amended in 2013) is the 'Bible' to banning the children involvement with tobacco in Bangladesh. The act strictly prohibited or ban on selling tobacco products to a children (minor), unfortunately this act did not referred the those children working at tobacco cultivation (tobacco field), production (tobacco goods

production) and processing levels. So the study strongly prescribed that the act should be amended and declared the prohibition of children at every level i.e. cultivation, production, processing and marketing of tobacco related involvement.

f. Children's life skill, knowledge and participation

Children should be aware of their right for not being abused and be warned of the dangers of, for example, tobacco field and processing levels, they are more vulnerable to health. Children also need to be provided with safe and protective channels for participation and self-expression at tobacco preventing related rally, precession, human chain and seminar. Where children have no opportunities for participation, they are more likely to become involved in tobacco of other dangerous or harmful activities.

e. Monitoring and reporting

For sound and safe childhood of children, parents must be ensured family bondage and monitoring, ensure good company at a playing period at the playground, schooling and pleasure period. Parents would be ensuring their children about the social norms, values and moral education along with their formal education respectively.

However, the following recommendations have been prescribe by the study team such as-

Keep provision in the relevant plan/policy to prohibit of children involvement in tobacco related issues, besides there should be a comprehensive survey on children's involvement tobacco related jobs i.e. marketing, field labor or workers, industrial workers.

Specific problem related to Children should address properly in the policy/plan with special attention and initiatives should be taken to solve those problems in relation to tobacco issues in Bangladesh. Policy/plan should incorporate the provision of children for their

- good childhood and future skilled manpower.
- It is required to incorporate the roles and responsibilities towards the children in the National Curriculum and Text Book Board for general awareness on tobacco related issues at every level.
- Tobacco field and processing (chimney) area is dangerous zone for children health, however existing laws, rules and policies did not cover the tobacco field and processing levels children workers as prohibition. For this reason law and enforcement authority does not take any attempts in these levels, although *'Convention on the*

Rights of the Child, 1989' directly banned the hazardous job of children in everywhere. So, implementing authority should be aware about the existing laws, rules, policies and strategies by involving them in the tobacco related seminar, human chain, precession, rally and so on.

Conclusion

Every child is precious and has the inherent right to life. Everyone such as parents, caregivers, government, NGO, civil society, the media and even the man on the street has the responsibility to ensure every child security. And they should be protected by law. Bangladesh laws comply with the UN convention. But unfortunately, execution and monitoring the law is weak to ensure the rights of children. For the proper implementation we need to examine our legislation systematically addressing the rights of children and the methods of their implementation as well. However, legislation is not the Sonly solution although they have direct impact on the status and general welfare of children. We need to change outlook for upbringing of children in the family, to create a healthier social environment.

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