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Made By Children

- *A study of the elimination of child labour in
Bangladesh's textile industry*

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ABSTRACT

In the stitches of our clothes one can often find traces of child labour. The garment industry in Bangladesh is the country's largest export sector. It is also a sector where severe human rights violations take place on a daily basis in relation to child labour. Accidents in textile factories in the country causing numerous deaths relatively recently brought the situation of working conditions to the forefront of the world's attention. But the matter of child labour in the Bangladesh garment industry has been a subject of global attention for some time. Child labour occurs in all regions and sectors in the world. In 2012, ILO estimated that 168 million children were trapped in such working conditions. It also is relatively common in Bangladesh where about 3.2 million children are trapped in child labour.

The garment industry is for many States, including Bangladesh, the fundamental pillar of the country's economy. The industry provides millions of farmers, families and children with a financial income as well as it enriches the country with foreign exchange from export. The garment industry, including its local supply chain is extremely labour intense and children have frequently been carrying out work which is harmful to their socio-economic development and health. Children in this sector are often used to weave, or perform other tasks that are related to the industry. The work most commonly takes place indoors under strict surveillance. Many international legal documents acknowledging and regulating the prohibition of child labour and children's working conditions have developed over a relatively long time-span, but today there is adequate legislation regulating this matter. That international legislation is adopted and incorporated in national laws is important to eliminate child labour and recognizing the rights of the child in this regard. International pressure and actions has been taken to make Bangladesh comply with international standards, adopt national laws on child labour and especially to reduce the numbers of child laborers in the formal garment industry. The formal garment industry in Bangladesh has recently been declared child labour free. But this has not been the reality for a long time. Therefore how this came to happen will be explored in this thesis. This thesis will analyze the events leading to the fact that Bangladesh's formal garment industry is today child labour free. On the basis of this, Bangladesh can be considered as one of the big global tests. If the battle against child labour can be won in the garment industry in this country, there is hope for this to occur in other industries, sectors and countries in similar situations as well. Therefore it is important to look at the concrete actions taken and assess whether international obligations and pressure have had any impact on the national developments including legislation, actions, and the reduction of child laborers in the garment sector.

Key Words: *Law; Human Rights; Labour Law; Child Labour; Bangladesh; Garment industry*

SAMMANFATTNING

I stygnen i våra kläder kan man ofta finna spår av barnarbete. Klädindustrin i Bangladesh är landets största exportsektor. Det är också den sektor där överträdelser av de mänskliga rättigheterna sker dagligen i förhållande till barnarbete. Olyckor i textilfabriker runt om i landet har orsakat flertalet dödsfall, vilket även tagit situationen gällande landets arbetsrättsliga förhållanden samt användning av barnarbete till världens beaktande. Frågan om barnarbete i Bangladeshs klädindustri har dock under en längre tid varit föremål för den globala gemenskapen. Barnarbete förekommer i alla regioner och sektorer i världen, och under 2012 beräknade ILO att ca 168 miljoner barn var inblandade i någon form av arbetsförhållanden som klassificeras som barnarbete. Barnarbete är även relativt vanligt i Bangladesh där omkring 3,2 miljoner barn jobbar under diverse former av barnarbete.

Klädindustrin är för många stater, däribland Bangladesh, en grundläggande pelare i landets ekonomi. Branschen bringar miljontals bönder, familjer och barn en finansiell inkomst, likväl som den berikar landet med inkomst från export. Klädindustrin, inklusive den lokala distributionskedjan är intensiv och barn utför ofta arbete som är skadligt för deras socioekonomiska utveckling- och hälsa. Arbetande barn i denna sektor används ofta till att väva eller utföra andra uppgifter som är relaterade till industrin. Vanligast är att arbetet sker inomhus under strikt övervakning och hårda arbetsförhållanden. Flertalet internationella juridiska dokument vilka erkänner och reglerar förbudet mot barnarbete samt barns arbetsvillkor har utvecklats under en relativt lång period, och i dag finns det en adekvat lagstiftning i förhållande till dessa förfärliga men så vanliga seder. Att internationell lagstiftning antas och införlivas i nationell lag är ett väsentligt sätt att eliminera barnarbete och erkänna barns rättigheter i detta avseende. I Bangladesh har det förekommit internationella påtryckningar för att reducera barnarbete vilket har lett till att flertalet åtaganden har vidtagits av landet för att följa internationella normer, så som antagandet av nationella lagar. Mirakulöst har den formella textil industrin i landet officiellt förklarats fritt från barnarbete. Detta har dessvärre inte varit verklighet under en lång tid. Således analyserar denna uppsats händelser som bistått till att denna sektor idag är fri från barnarbete. På dessa grunder kan Bangladesh även betraktas som ett globalt test. Om kampen mot barnarbete kan vinnas i klädindustrin i landet, kan det finnas hopp för att detta kan ske inom andra branscher, sektorer och länder i liknande situationer. Därför är det viktigt att titta på de konkreta åtgärder som vidtagits och bedöma huruvida internationella förpliktelser och påtryckningar har haft inverkan på den nationella lagstiftningen och reduceringen av barnarbetare inom klädindustrin i landet.

***Nyckelord:** Juridik; Mänskliga rättigheter; Arbetsrätt; Barnarbete; Bangladesh; Textil industri*

PREFERANCE

The process of writing this Juris Master thesis in human rights law, with specialization in international labour rights has certainly been a very exciting procedure; nevertheless very challenging at the same time. This thesis has been written during the spring semester 2015. During this time-span I additionally got the opportunity to carry out a very interesting internship at the European Commission's Representation in Sweden.

Many people have been involved in the process, and I am very thankful for their support and encouragements, not least the support and inspiration from my supervisor Constance Thomas that have provided guidance and insight in complex issues related to child labour and ILO standards eliminating and affecting child labour and children's rights.

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ABBREVIATIONS

BGMEA	Bangladesh Garment Manufactures & Exporters Association
CRC	Convention on the Rights of the Child
CSPB	Child Sensitive Social Protection project
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFC	International Finance Cooperation
ILC	International Labour Conference
ILO	International Labour Organization
IPEC	International Programme on the Elimination of Child Labour
MFA	Multi-Fiber Arrangement
MOU	Memorandum of Understanding
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNICEF	United Nation Children's Fund

1. INTRODUCTION

1.1 BACKGROUND

In the stitches of our clothes one can often find traces of child labour. The garment industry in Bangladesh is the country's largest export sector. It is also a sector where severe human rights violations take place on a daily basis in relation to child labour.¹ Accidents in textile factories causing numerous deaths recently brought the situation of working conditions to the forefront of the world's attention. But the matter of child labour in Bangladesh's garment industry has been a subject of global attention for some time.²

Child labour occurs in all regions and sectors in the world. In 2012, ILO estimated that 264 million children between the ages 5-17 were actively participating in some kind of economic activity globally, where an estimate of 168 million of these children were carrying out work defined as child labour.³ Child labour is also relatively common on the Bangladesh labour market, and is often a last resort for survival for the child itself and his or her family.⁴ Bangladesh's large labour force of children were estimated to be nearly 7.4 million children working within different economic activities, while about 3.2 million of these children between the ages 5-17 are trapped in different conditions considered as child labour.⁵

The garment industry is for many States, including Bangladesh, the fundamental pillar of the country's economy. The industry provides millions of farmers and families with a

¹ Programme on the Elimination of Child Labour, (IPEC), 2006. "Bangladesh: Child Labour Data: Country Brief". International Labour Office, Geneva, p.4-5. AND: Central Intelligence Unit, CIA, Accessed: 14.01.2015. "*The world fact book: Bangladesh*". www.cia.gov/library/publications/the-world-factbook/geos/bg.html

² The Economist, 2013. "*Avoiding the fire next time*". The Economist. 4 May 2013, www.economist.com/news/business/21577078-after-dhaka-factory-collapse-foreign-clothing-firms-are-under-pressure-improve-working

³ Diallo, Yacouba, Etienne Alex and Mehran Farhad, 2013. "*Global child labour trends 2008 to 2012*". ILO: Geneva, pp.vii-ix.

⁴ UNICEF, Accessed: 27.01.2015. "*Ideas and Actions*". UNICEF, pp.60-61 www.unicef.org/sowc97/download/sow2of2.pdf

⁵ UNICEF, 2010. "*Report: Child Labour in Bangladesh*". UNICEF: Bangladesh

financial income as well as it enriches the country with foreign exchange from export.⁶ The garment industry including its local supply chain is extremely labour intense and children are frequently carrying out work which is harmful to their socio-economic development and health.⁷ Children are often used in the labour force to perform various tasks that are related to the industry.⁸ Most commonly the work takes place indoors, under strict surveillance and very intense working conditions.⁹

To eliminate child labour many international laws and policies acknowledging and regulating the prohibition of child labour and children's working conditions have developed over a relatively long time-span. These important legal documents are providing a solid foundation for legal protection for children, even if the enforcement of the legislation is lacking in many States globally. The Universal Declaration of Human Rights (UDHR),¹⁰ The International Covenant on Civil and Political Rights (ICCPR),¹¹ The International Covenant on Economic Social and Cultural Rights (ICESCR),¹² and the Convention on the Rights of the Child (CRC),¹³ together establish the fundamental legal basis for children's rights under general international law. More specific legislation related to labour is embraced in the ILO Convention no.138 on minimum age for admission of Employment,¹⁴ and ILO Convention no.182 on the Worst forms of Child Labour.¹⁵

⁶ Plastina Alejandro, 2009. "*Child Labor in the Cotton and Textile Sectors*". International Cotton Advisory Committee, USA: Washington, p.3.

⁷ Programme on the Elimination of Child Labour, (IPEC), 2006. "*Bangladesh: Child Labour Data: Country Brief*". International Labour Office, Geneva, p.4-5. AND: Central Intelligence Unit, CIA, Accessed: 14.01.2015. "*The world fact book: Bangladesh*". www.cia.gov/library/publications/the-world-factbook/geos/bg.html

⁸ Ibid.

⁹ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.28

¹⁰ Universal Declaration of Human Rights, General Assembly Res. 217A (III), 10 December 1948

¹¹ International Covenant on Civil and Political Rights (1976) 999 UNTS 171. Adopted by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976

¹² International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

¹³ Convention on the Rights of the Child adopted by the General Assembly resolution 44/25 of 20 November 1989 and entered into force 2 September 1990

¹⁴ ILO Convention No. 138 on the Minimum Age for Admission to Employment, 1973

¹⁵ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.21 and 45

Law is an important tool in order to recognize a prohibition of child labour and regulate working standards for individuals under certain ages. It generates obligations for States and employees to follow. Law is central to lay a foundation upon which duties and rights can be established. Even if the law is not sufficient it is a critical starting point. Therefore the adoption of international treaties and incorporation of them into national legislation important to eliminate child labour and recognize the rights of the child in this regard. To determine if the international obligations, pressure and the measures taken are effective at the national level, the national legislation has to be viewed in the light of international law.¹⁶ Child labour is for certain not easy to abolish and various factors, in addition to law, have to be considered in the process. Nevertheless, even if adequate legislation is in place, the reality and the social norms may differ, and the actual practice may still be in contradiction to the law in the books. Legislation prohibiting child labour is not enough, even if it provides a legal base for child labour violations. By promptly introducing stricter legislation or policies, children can be left without alternatives than to engage in even worse labour. Co-operation among different actors to defeat the root-causes of child labour, such as poverty, and introducing children to educational programs is very essential in this process.¹⁷

There has been international pressure placed on Bangladesh – and actions taken to comply with international standards, to adopt national laws and reduce the numbers of child laborers in the formal garment industry. As Bangladesh is a major exporter of textiles, there has been a large interest by governments, international organizations and independent companies to abolish child labour in the garment sector.¹⁸ These efforts have resulted in substantial changes and improvements to reduce child labour on the national level, which correspondingly resulted in that Bangladesh's formal garment industry is now being declared child labour free, even if the informal sector yet has

¹⁶ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.203-204

¹⁷ UNICEF, Accessed: 27.01.2015. "*Ideas and Actions*". UNICEF, pp.60-61 www.unicef.org/sowc97/download/sow2of2.pdf

¹⁸ Ibid.

considerable widespread problems with these issues.¹⁹ Therefore, this thesis will analyze the events leading up to how Bangladesh's formal garment industry today became child labour free. On this basis Bangladesh can be considered one of the big global tests. If the battle against child labour can be won in the formal garment industry in the country, there is hope for this to occur in other industries and sectors in Bangladesh and in other countries in similar situations. Hence it is important to look at the concrete actions taken and assess whether international obligations and pressure have had any impact on the national legislation, action undertaken and on the amount of child laborers in the garment industry in the country.

1.2 REASERCH QUESTIONS

This thesis will answer two main research questions:

(1) - Have international obligations and pressure had any impact on the amount of child labour as well as on national legislation and action undertaken on child labour in the garment industry in Bangladesh?

(2) - Is national legislation to eliminate child labour in the garment industry in line with international standards and sufficiently adequate to eliminate or substantially reduce child labour?

¹⁹ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

1.3 PURPOSE

The aim of this thesis is to evaluate how child labour has been eliminated in the formal garment industry of Bangladesh as a result of the actions responding to international pressure and actions as well as by adoptions, enforcements and implementation of national laws. Therefore this thesis analyzes the international legal scope and obligation for eliminating child labour, but also to acknowledge children's rights in this regard, with a specific focus on the legal protection for children working in the garment industry. Bangladesh is a fascinating country to explore because of its long history with internal political conflicts, which also have affected the labour market. Approximately one-third of the population is living in poverty and the country is currently underdeveloped, having a high level of child laborers. Interestingly it has a steady growing GDP and is dependent on international trade exposure, which brings substantial effects on the labour market.²⁰

By analyzing the internationally accepted definition of child labour and what obligations Bangladesh has accepted to give effect to these principles will give a deeper insight of the country's current position in the fight to eliminate child labour. By examining what the international legal framework is at present and how these provisions have been adopted and implemented into Bangladesh's national laws gives clear guidance in if national laws are compatible with international laws and standards and if there are legal gaps in national legislation. Furthermore, by examining and analyzing the actions taken in the garment industry in Bangladesh it will specially focus on the achievements made for children in this sector, and further provide insight in if the measures taken are effective enough to combat child labour in the textile industry. Bangladesh's achievements in reducing child labour can be viewed as an important model for other states to follow in their fight against child labour.

²⁰ Central Intelligence Unite, CIA, Accessed: 14.01.2015. *"The world fact book: Bangladesh"*. www.cia.gov/library/publications/the-world-factbook/geos/bg.html

1.4 LIMITATIONS

As this thesis focuses on children carrying out labour in the formal garment industry, several other branches and sectors where child laborers work, such as in services and agriculture, will only be briefly covered. By mainly focusing on the legal framework other factors contributing to eliminate child labour will be left aside; such as exploring the social- and economic development and measures contributing to eliminate child labour on the national level, as well as the measures taken to introduce children in schooling. These measures will only be briefly discussed, but not analyzed extensively. Besides, the focus is primarily on how child labour was eliminated in the formal economy, resulting in that the informal economy will not receive a major focus, even if the differences between these two will be discussed.

As it is difficult to assess the impact of international action and of international- and national laws, the utmost that can be presented in this paper is an indication of causation. Thus the paper will use statistics and reports to determine the causal connection, including time sequences, law reforms and international supervisory comments, to obtain a clear picture of the connection between these variables. Other limitations are concerning the statistical data included in this thesis. All statistics in this field of research are estimates. Some of the data may not be comparable and thus hinder accurate analysis of trends. New statistical surveys are being undertaken and the results of the current statistics on child labour may affect the conclusion reached in this thesis.

1.5 METHODOLOGY

A traditional legal method will be used in the examination of this thesis. The essential material covered for this research will focus on international and national legislation and standard setting documents concerning children's rights in relation to the elimination of child labour, with a further focus on the garment industry. Academic articles, international- and country reports on the current status of child labour will provide

insights of the contemporary level of child labour globally but also on the national level. Similar literature will be used in order to discover Bangladesh's garment sector and provide further insights in the development, progresses and flaws in this sector. Surveys and other studies carried out by international organizations will be central for this research, by providing essential data revealing child labour internationally and in the Republic of Bangladesh. This collection of data and material will be central in determining if international obligations and pressure have had any impact on national laws, as well as if there has been a reduction of child labour in the country since these events took place.

1.6 OUTLINE

The first chapter of this thesis will provide the general introduction and problem formulation. It will include the research questions, purpose, limitations and methodology used for the thesis, providing the basic framework supporting the whole thesis. In the second chapter the definition of child labour will be covered. This chapter is relatively broad and provides a detailed legal definition of child labour and the worst forms of child labour, as well as it goes beyond these definitions and explores the characteristics, limits and root causes of child labour. It focuses on analyzing the global trend of child labour, in which sectors children are working as well as it acknowledges the role of the formal and informal sector. It further explores the links between child labour and other human rights, such as education.

In the third chapter the outlook of child labour in Bangladesh will be explored. This chapter firstly focuses on Bangladesh, its history and economic development and the most important economic sectors in the country. Secondly it focuses on the situation of child labour in Bangladesh, and more specifically on child labour and hazardous work in the garment industry. It furthermore includes a discussion on the root causes for child labour in this specific sector. Chapter four further analyses the international laws on child labour. This chapter provides insight in- and determines what international obligation applies to States in relation to child labour, and more specifically to

Bangladesh. This is significant to determine in the end, if the national legislation is compatible with international obligations. This chapter serves as a foundation for the continuing legal analyses of how Bangladesh is complying with international standards and how these are eliminating child labour.

The fifth chapter serves as the analyses section of this paper and is mainly focusing on the elimination of child labour at the national level and the measures taken by the government and international organization to adopt and implement standards concerning child labour in the garment industry. This chapter presents a timeline of events. It covers the international supervision and the pressure and action taken. It further focuses on the national laws and the improvements made in accordance with international standards, and finally it analysis the concrete outcomes of the law. The last chapter provides the conclusions and recommendations of this thesis. It answers the two research questions, and in the end it evaluate if the elimination of child labour in the formal garment sector in Bangladesh is a success story, and explore why it is, or not.

2. CHILD LABOUR

2.1 DEFINING CHILD LABOUR

The usage of child laborers is one of many severe and frequent human rights violations facing the world today. In 2012, ILO estimated that 264 million children globally between the ages 5 to 17 were actively participating in some kind of economic activity, where an estimate of 168 million of these children were trapped in unlawful forms of labour, so-called child labour.²¹ It is important to keep in mind that child labour is work carried out by children that is unlawful. The work is affecting the child's well-being, health, educational opportunities, morals and/or the child's development. This correspondingly means that all work carried out by children is not illegal. There are international laws and standards regulating labour conditions for children under the age of 18.²²

Before exploring the legal terms of child labour it is important to understand that the perception of what is unlawful labour is a conflicting topic between States as well as among the global population. Cultural- and normative differences affect what individuals considers as unlawful. The fact that a child is carrying out labour is in many cultures and societies encouraging. Arguments behind this view are that children are becoming more independent and enriched with working experience as well as that the child is earning useful working skills for his or her future working life. In respect to this view the general understanding is that a child entering the labour market at early age is benefiting the society as a whole and his or her family financially. On the other hand, there are views to the opposite of this where individuals argue that more or less all labour carried out by children is unlawful child labour.²³

²¹ Diallo, Yacouba, Etienne Alex and Mehran Farhad, 2013. *“Global child labour trends 2008 to 2012”*. ILO: Geneva, pp.vii-ix.

²² International Labour Office, 2004. *“Child Labour: A textbook for university students”*. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.16.

²³ Ibid.

There are frequently confusions between the two terms ‘children in employment’ and ‘children in child labour’. It is important to separate and make a clear distinction between these similar but very different expressions. Children in employment refers to children that are legally working in agreement with international labour standards established by the International Labour Organization (ILO) Convention no.138 on minimum age for admission of Employment and Convention no.182 on The Worst forms of Child Labour. On the contrary, the term children in child labour applies to all labour carried out by children that are contradicting to these international standards; in other words, unlawful labour.²⁴

To fully comprehend the specific terms of child labour the legal terminologies and basis has to be defined, starting with the definition of a child. A child, which the Convention on the Rights of the Child (CRC) defines under Article 1, is a person under the age of 18.²⁵ This age definition is important to keep in mind while discovering children’s rights in relation to labour.

Child labour appears when a child is exposed to work that: “(1) is mentally, physically, socially or morally dangerous and harmful to children; and (2) interferes with their schooling:

By depriving them of the opportunity to attend school;

By obliging them to leave school prematurely; or

By requiring them to attempt to combine school attendance with excessively long and heavy work”.²⁶

The International Labour Organizations conventions are essential in defining the internationally recognized terms relating to child labour where they provide a regulatory framework for internationally accepted labour standards. States has the authority to

²⁴ Diallo, Yacouba, Etienne Alex and Mehran Farhad, 2013. “*Global child labour trends 2008 to 2012*”. ILO: Geneva, pp.vii-ix

²⁵ Convention on the Rights of the Child adopted by the General Assembly resolution 44/25 of 20 November 1989 and entered into force 2 September 1990

²⁶ International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.16

themselves legislate and determine specific conditions in relation to child labour in their national legislation. International standards set the framework for minimum age, but national legislation can determine the national minimum ages for employment, unlawful work, working conditions as well as working hours for children.²⁷

Table 1 below provides a clear overview of the internationally recognized minimum ages for employment for children under the age of 18, based on ILO’s Convention no.138 that are including the basic minimum age for work, age limits for light work and hazardous work.

TABLE 1: MINIMUM AGE

“Categorization of work	The minimum age at which children can start work	Possible exceptions for developing countries
Hazardous work Any work which is likely to jeopardise children’s health, safety or morals should not be done by anyone under the age of 18	18 (16 under strict conditions)	18 (16 under strict conditions)
Basic Minimum Age The minimum age for work should not be below the age for finishing compulsory schooling, which is generally 15	15	14
Light work Children between the ages of 13 and 15 years old may do light work, as long as it does not threaten their health and safety, or hinder their education or vocational orientation and training”. ²⁸	13-15	12-14

Source: Table taken from; United Nations, Accessed: 08.01.2015. “*Child Labour: International conventions on child labour*”, United Nations.

The specific principles of minimum age include a clear overview of the specific legal standards. But to repeat the age limit for minimum age for employment in developed states, the basic minimum age is 15 while it is 14 in States considered to be undeveloped. Hazardous work has the age limit at 18 in both cases; nonetheless exceptions to work in

²⁷ International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.16

²⁸ United Nations, Accessed: 08.01.2015. “*Child Labour: International conventions on child labour*”, United Nations

accordance with national legislation can be made from the age of 16. So-called light work can be carried out between the ages 13-15 in developed States, which is a difference with 1 year in comparison to undeveloped States that can have the age limits between the ages 12-14.²⁹ This set of rules is important to evaluate the efforts made by States to legislate in accordance with these standards, how they are striving for adoption of such a central convention aiming at eliminating child labour.

The legal determination of minimum age limits is broadly framed under international law and can consequently differ extensively within States' national legislation. Various international and national features determine if working children shall be considered child laborers in one specific country, or not. One example explaining this issue is that States can be exempted from adopting a higher age-limit for work, if they declare themselves to be an undeveloped country. States are classified to be either a developed or undeveloped country, which reflects the legal requirements and international acceptance for the minimum ages for occupations for different working conditions. Therefore, States have wide-ranging range possibilities to legislate minimum ages in accordance with their States status.³⁰ Nevertheless, stricter regulations apply to the worst forms of child labour which will be explored below.

2.2 THE WORST FORMS OF CHILD LABOUR

As late as in 1999, during the International Labour Conference (ILC) held in Geneva Switzerland, governments, trade unions and employers' organizations adopted Convention No.182 on the Worst Forms of Child Labour. Delegates sent by the 175 Member States of the ILO adopted the convention through a anonymous vote, which certainly is a significant recognition showing a strong international support for the elimination of the so-called worst forms of child labour which affects all children under the age of 18.³¹

²⁹ ILO Convention No. 138 on the Minimum Age for Admission to Employment, 1973

³⁰ United Nations, Accessed: 08.01.2015. "*Child Labour: International conventions on child labour*". United Nations. www.un.org/en/globalissues/briefingpapers/childlabour/intlconvs.shtml

³¹ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.44-45

Defined under article 3 of Convention No. 182 are the worst forms of child labour. The article declares that the worst forms of child labour are:

“(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Labour that jeopardizes the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, is known as ‘hazardous work’.”³²

As set out in the last paragraph of the article, 3(d), it underlines that hazardous work is a branch of the worst forms of child labour. This provision applies directly to the garment industry and is therefore important for further analysis in this thesis.³³

2.2.1 HAZARDOUS WORK

Hazardous work is, as also mentioned above, among the worst forms of child labour and approximately half of the total global amount of children trapped in child labour is carrying out labour within this category. An estimate of 85.3 million children globally was during 2012 working under conditions considered as hazardous work.³⁴

A part from the provisions of Convention No. 182 set out above, the ILO

³² ILO Convention No. 182 on the Worst Forms of Child Labour, 1999

³³ Ibid.

³⁴ Diallo, Yacouba, Etienne Alex and Mehran Farhad, 2013. “*Global child labour trends 2008 to 2012*”. ILO: Geneva, pp.vii-ix

Recommendation No. 190 concerning the Prohibition and Immediate Action for the Elimination Worst Forms of Child Labour entered into force in 1999 and includes the guiding principles for defining what hazardous labour is, and what type of labour that should be prohibited in this regard. Nevertheless, these recommendations are not absolute and other specific tasks and working conditions can fall under the definition of hazardous work and being a part of the so-called worst forms of child labour. Recommendation No. 190 declares that hazardous work includes the following:

- “(a) work which exposes children to physical, psychological or sexual abuse;
- (b) work underground, under water, at dangerous heights or in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer”.³⁵

This ILO recommendation includes general guidelines and each country must then adopt a list of hazardous work for its own country including specific work, sectors and working conditions that are hazardous. Nonetheless, it is recommended that these criteria declared above in relation to hazardous work shall be included in the national legislation as well as the specific list of hazardous works and working conditions.³⁶

³⁵ ILO Recommendation No. 190 concerning the Prohibition and Immediate Action for the Elimination Worst Forms of Child Labour 1999

³⁶ Ibid.

2.3 GLOBAL TREND ON CHILD LABOUR

Throughout history children have been used in different kinds of sectors in the labour market and exposed to dangerous and health harming situations. Child labour is one of the largest concerns globally and still worrying numbers of children are trapped in different forms of child labour are frequently reported. The total global amount of children involved in child labour has however proven to diminish drastically over the last couple of years. The 246 million child laborers between the ages 5-17 in year 2000, has drastically declined to 168 million in 2012. This means that one-third of the total amount of child laborers reduced in merely 12 years. This is certainly an impressive progress in eliminating child labour globally, but yet statistics shows that approximately 11 percent of all children globally are working in different forms considered as child labour.³⁷

According to estimates of child labour by regions, the Asia-Pacific region has alarming numbers of almost 78 million children working in different forms of child labour, resulting in that the region has the largest quantity of child laborers in comparison to the total population in the region. This enormous amount of child laborers equals to 9.3 percent of the total child-population in the Asia-pacific region.³⁸ Table 2 below gives a sharp overview and indication of the trends of child labour in three of the world's regions.

³⁷ ILO-IPEC, 2013. *Marking progress against child labour - Global estimates and trends 2000-2012*. ILO-IPEC: Geneva, pp.3-5

³⁸ Ibid.

TABLE 2: TREND AMONG THE REGIONS

“Region	Year	Child population	Child labour		
		(‘000)	(‘000)	%	% change
Asia and the Pacific	2008	853,895	113,607	13.3	
	2012	835,334	77,723	9.3	-4
Latin America and the Caribbean	2008	141,043	14,125	10.0	
	2012	142,693	12,505	8.8	-1.2
Sub-Saharan Africa	2008	257,108	65,064	25.3	
	2012	275,397	59,031	21.4	-3.9” ³⁹

Source: Table taken from: ILO-IPEC, 2013. “*Marking progress against child labour - Global estimates and trends 2000-2012*”. ILO-IPEC: Geneva, p.5

This 4-year trend between 2008-2012 shows child labour statistics from Asia-Pacific, Latin America and, the Caribbean and the Sub-Sahara Africa region. It can be noticed that when it comes to child labour, Asia and the Pacific region has the highest number of child laborers while Latin America and the Caribbean has the lowest number compared to the mentioned regions. When it comes to the percentage of the child population involved in child labour the Sub-Saharan Africa region has with over 20% the highest percentage amount compared to the other regions where the percentage amount is around 10%. Another important aspect shown in the above table is the percentage change, or in this case reduction of child labour in the different regions from 2008 to 2012. It can be noticed that even though Asia and the Pacific has the higher number of child laborers the reduction during the period between 2008 and 2012 has been more successful compared to the other regions. Asia and the Pacific reduced the percentage of the child population involved in child labour with 4%, over Sub-Saharan Africa that reached a decrease of 3.9% and Latin America and the Caribbean that only reached a

³⁹ ILO-IPEC, 2013. “*Marking progress against child labour - Global estimates and trends 2000-2012*”. ILO-IPEC: Geneva, p.5

decrease of 1.2% during this 4-year timespan.⁴⁰ By listing these distressing numbers on the amount of child laborers in different regions clearly confirms that child labour is a global, widespread and tremendously common phenomenon, and even if child labour decreases slowly, the numbers do however diminish which per se is very positive.

TABEL 3: ASIA-PACIFIC COUNTRIES AND CHILD LABOUR

“Country % of total children in the age group	Total in child labour: children aged 5-17 years
Bangladesh	11.8
Bhutan	14.5
India	1.9
Maldives	--
Nepal	26.2
Pakistan	11.8
Sri Lanka	10.2” ⁴¹

Source: Figures taken from; Khan Sherin , Lyon Scott, 2015. *“Measuring children’s work in South Asia - Perspectives from national household surveys”*. International Labour Organization (ILO) and Understanding Children’s Work (UCW), p.8

Table 3 shows seven countries in the Asia-Pacific region and the percentage amount of children aged 5-17 years involved in child labour. It can be noticed that the country with the highest percentage amount of children in this age group involved in child labour is Nepal (26.2%) whereas India, with 1.9% is the country with the lowest percentage amount. Bangladesh has with 11.8% a similar amount of children between 5 and 17 years in child labour as Pakistan and Sri Lanka. The table shows that Bangladesh is not

⁴⁰ ILO-IPEC, 2013. *“Marking progress against child labour - Global estimates and trends 2000-2012”*. ILO-IPEC: Geneva, p.5

⁴¹ Khan Sherin , Lyon Scott, 2015. *“Measuring children’s work in South Asia - Perspectives from national household surveys”*. International Labour Organization (ILO) and Understanding Children’s Work (UCW), p.8

the country with the highest percentage of child labour in the designated age group in the Asia-Pacific region, nor the county with the lowest percentage amount.⁴²

2.3.1 WORST FORMS OF CHILD LABOUR

85 million children are currently active in hazardous occupations, which is one aspect of the worst forms of child labour. During the timespan from 2000-2012, the reduction of child laborers in hazardous work has been diminished by half, meaning a reduction of 86 million child laborers in hazardous occupations. This is a positive result as the worst form of child labour is the most crucial and urgent matter and its elimination has been targeted for priority action.⁴³

By exploring the regional division of child laborers in hazardous work, the Asia and the Pacific is in the top with an estimate of approximately 33.9 million children between the ages of 5-17. Sub-Saharan Africa receives a second place with 28.8 million children in hazardous work. Latin America and the Caribbean have 9.6 million children in hazardous labour.⁴⁴ Table 4 below further provides a statistical trend on the worst forms of child labour in these three regions.

⁴² Khan Sherin , Lyon Scott, 2015. *“Measuring children’s work in South Asia - Perspectives from national household surveys”*. International Labour Organization (ILO) and Understanding Children’s Work (UCW), p.8

⁴³ ILO-IPEC, 2013. *“Marking progress against child labour - Global estimates and trends 2000-2012”*. ILO-IPEC: Geneva, pp.3-4

⁴⁴ Diallo, Yacouba, Etienne Alex and Mehran Farhad, 2013. *“Global child labour trends 2008 to 2012”*. ILO: Geneva, pp.vii-ix

TABLE 4: WORST FORMS OF CHILD LABOUR

“Region	Year	Child population	Hazardous work		
		(‘000)	(‘000)	%	% Change
Asia and the Pacific	2008	853,895	48,164	5.6	
	2012	835,334	33,860	4.1	-1.5
Latin America and the Caribbean	2008	141,043	9,436	6.7	
	2012	142,693	9,638	6.8	+0.1
Sub-Saharan Africa	2008	257,108	38,736	15.1	
	2012	275,397	28,767	10.4	-4.7 ⁴⁵

Source: Table taken from: ILO-IPEC, 2013. “*Marking progress against child labour - Global estimates and trends 2000-2012*”. ILO-IPEC: Geneva, p.5

Table 4 presents a 4-year statistical trend, between 2008-2012 for hazardous work in Asia-Pacific, Latin America and the Caribbean and the Sub-Sahara Africa. The above table shows that the number of children involved in hazardous work in 2012 is highest in the Asia and Pacific region and lowest in Latin America and the Caribbean, even though the percentage amount of the child population involved in hazardous work is, with 10.4% in 2012, highest in Sub-Saharan Africa and with 4.1% lowest in Asia and the Pacific.⁴⁶

In this table it can be noticed that during the years from 2008 and 2012 the Sub-Saharan Africa region has been able to reduce the number of children in hazardous work with 4.7%. Asia and the Pacific reduced the number of children in hazardous work with 1.5% while a slight increase of 0.1% can be noticed in the Latin America and the Caribbean region.⁴⁷

⁴⁵ ILO-IPEC, 2013. “*Marking progress against child labour - Global estimates and trends 2000-2012*”. ILO-IPEC: Geneva, p.5

⁴⁶ Ibid.

⁴⁷ Ibid.

TABEL 5: ASIA-PASIFIC COUNTRIES AND HAZARDOUSE WORK

“Country	Children aged 15-17 years in hazardous work
	% of total children in the age group
Bangladesh	35.8
Bhutan	2.1
India	3.8
Maldives	-
Nepal	16.3
Pakistan	13.5
Sri Lanka	17.7” ⁴⁸

Source: Figures taken from; Khan Sherin , Lyon Scott, 2015. “*Measuring children’s work in South Asia - Perspectives from national household surveys*”. International Labour Organization (ILO) and Understanding Children’s Work (UCW), p.8

When it comes to hazardous work, table 5 gives an overview of seven countries in the Asia-Pacific region and the percentage amount of children aged 15-17 involved in hazardous work. The data in this table shows that Bhutan has with 2.1% the lowest amount of children aged 15-17 involved in hazardous work, while Bangladesh with 35.8% is the country with the largest amount. India has with 3.8% a comparable low amount of children in this age group in hazardous work, while Nepal, Pakistan and Sri Lanka have around 15% of children involved in hazardous work.⁴⁹

⁴⁸ Khan Sherin , Lyon Scott, 2015. “*Measuring children’s work in South Asia - Perspectives from national household surveys*”. International Labour Organization (ILO) and Understanding Children’s Work (UCW), p.8

⁴⁹ Ibid.

2.4 SECTORS OF WORK

There are many sectors where children are working; nevertheless there are three main sectors that can be identified; Agriculture, Industry and Services. Below in Table 6 a clear picture of the global division of where children carry out their labour is provided.

TABLE 6: CHILD LABOUR IN DIFFERENT SECTORS

“Sector	2008		2012	
	(‘000)	% Share	(‘000)	% Share
Agriculture	129,161	60.0	98,422	58.6
Industry	15,068	7.0	12,092	7.2
Services	55,109	25.6	54,25	32.3” ⁵⁰

Source: Table taken from: ILO-IPEC, 2013. “*Marking progress against child labour - Global estimates and trends 2000-2012*”. ILO-IPEC: Geneva, p.8

Globally, approximately 98 million of all child laborers can be traced to the agriculture sector, which currently is the largest sector comprising almost 59 percentages of all child laborers. About 54 million children are in the service sector and nearly 12 million children are working in the industrial sector.⁵¹

Essential for the discussion is that most children working in forms considered to be child labour are working in the informal economy,⁵² which will be explained more in detail in the following section.

⁵⁰ ILO-IPEC, 2013. “*Marking progress against child labour - Global estimates and trends 2000-2012*”. ILO-IPEC: Geneva, p.8

⁵¹ Ibid.

⁵² Ibid.

2.4.1 THE GARMENT INDUSTRY

The garment sector, which is the central focus of this thesis, is included in the industry figures, but is also somewhat related to the agricultural figures. It belongs to one of the largest sectors where child labour occurs, particularly in developing States.⁵³ The garment industry is for many States the fundamental pillar of the country's economy. The industry provides millions of farmers, individuals and families with a financial income as well as it supplements the country's finances with foreign exchange steaming from export.⁵⁴

The labour conditions in the garment industry are in general very labour intense, meaning that the work is very demanding, and often machines are not used to process or produce the textiles and cotton. These tasks are done by hand, and often by children.⁵⁵ Children are often used to sew buttons on clothing or weaving carpets. But also "embroidery work, cutting/trimming, cutting thread, printing, making labels/tags/stickers, packaging, machine cleaning, weaving, hand stitching, dyeing, decorative work (such as adding sequins, decorative stones), button stitching, knitting, washing, and button coloring".⁵⁶

Children carrying out their labour in this sector do often work indoors under surveillance and very strict and intense working conditions. In the local supply chain, households often have their own production sites where they become sub-contracted to produce items on contract and/or commission basis. Household production sites generally produce smaller, handmade products.⁵⁷ Nonetheless, within the garment sector most of the goods and products produced are handmade. Very few machines are used to

⁵³ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.28

⁵⁴ Plastina Alejandro, 2009. "*Child Labor in the Cotton and Textile Sectors*". International Cotton Advisory Committee, USA: Washington, p.3

⁵⁵ Ibid.

⁵⁶ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 1-4

⁵⁷ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.28

construct products, which makes the work extremely demanding.⁵⁸ It is important to keep in mind that not all work in the garment sector is hazardous but some are, putting children in dangerous and health harming situations every day.⁵⁹

2.5 FORMAL AND INFORMAL ECONOMIES

A country's economy is divided into the formal- and informal sectors. In developing countries, the informal economy engages the mainstream of the population in economic activities, while the formal embraces comparatively few. This is also reflected for the usage of child laborers where most of the children are working in the informal economy, as it is easier to access for children, and harder to detect for governments than in the formal sectors. The division of the labour market results in major gaps and challenges in regulating, monitoring and detecting child labour, as governmental institutions cannot fully carry out their duties in the informal sector.⁶⁰

The informal is often characterized by the lack of regulation. It refers to “all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. Their activities are not included in the law, which means that they are operating outside the formal reach of the law; or they are not covered in practice, which means that – although they are operating within the formal reach of the law, the law is not applied or not enforced; or the law discourages compliance because it is inappropriate, burdensome, or imposes excessive costs”.⁶¹

Table 7 below identifies the most noteworthy differences between the formal- and informal sector, which also gives more understanding for why the formal sector is easier to regulate and eliminate child labour from.

⁵⁸ International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.28

⁵⁹ Plastina Alejandro, 2009. “*Child Labor in the Cotton and Textile Sectors*”. International Cotton Advisory Committee, USA: Washington, p.3

⁶⁰ International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.23-24.

⁶¹ International Labour Conference, 103rd Session, 2014. “Transitioning from the informal to the formal economy: Fifth item on the agenda”, Report V(1), International Labour Office, Geneva, p.4

TABLE 7: INFORMAL AND FORMAL SECTOR

“Informal Sector	Formal Sector
Easy entry	Restricted entry
High degree of resourcefulness	Frequent reliance on external resources
Family ownership of enterprises	Corporate ownership (usually foreign)
Small scale operation	Large scale (possible excessive/toxic waste)
Skills acquired outside formal school system	Formally acquired skills, often dependence on expatriates”. ⁶²

Source: Table taken from: International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.23.

As Table 7 demonstrates, the formal sector provides a restricted entry to the labour market, where government agencies regulate and control the labour conditions, which is harder to access for underage children. The formal sector is to a larger extent relying on external resources, and contrary to the informal sector, the formal sector is mostly based on corporate ownership, rather than family enterprises, and relies on larger operations than the informal sector. The work performed often requires skills obtainable through education, which young children do not have. Besides, the formal sector is regulated and monitored by the State, which makes children less attractive to employ for employers, which know they are being monitored. As the formal sector is both regulated and monitored by the government, children to a larger extent have to work on legal terms, leading to less violations of child labour. In the formal sector children do not fall outside the scope of the legal protection that is key for children to claim their fundamental rights. This is certainly one main consequence and difference between these two sectors.⁶³

Other consequences by working in the informal sector is that the governments through their employment agencies and tax offices are not aware of that children are working, as the job is officially not regulated or monitored by governmental institutions which consequently results in that children are not legally protected at all in work related

⁶² International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.23.

⁶³ Ibid, pp.23-24.

matters. For example, if a child gets ill, or even injured, he or she has no formal right to receive payment or compensation. Furthermore, children working in the informal sector have no job security of any kind, and cannot obtain protection from their employer if they are being ill-treated.⁶⁴ The division between the two sectors of the economy gives more understanding for why the formal sector is easier to regulate and eliminate child labour from than the informal.

2.6 WHY CHILD LABOUR OCCURS

To fully understand the concept of child labour the causes of the phenomenon have to be explored. By doing so, it also provides answers to how to combat child labour from its root causes, and in a more sustainable way eliminate child labour, both through legislation but also by establishing socio-economic development and social protection. Most children are introduced to labour through their families due to various underlying reasons. Undoubtedly the family and the societal situation affect the possibilities for a child and if he or she is going to carry out duties under terms considered as child labour. Studies show that poverty has a strong correlation to child labour, as well as legislation. Besides this, economic shocks and risks also affect the possibility for children to be introduced to the labour market.⁶⁵

When focusing on the importance of national legislation it can be noticed that there is a strong correlation between the lack of a clear prohibition of child labour in the national legislation and the probability for children to actively participate in the labour market. If national legislation does not prohibit child labour nor has a clear regulation for children on the labour market, the law cannot fully be used as a tool for eliminating it. Nevertheless, even if there is an existing law embracing such provision, the enforcement mechanisms may lack, resulting in that the legislation is not given full effect. Active labour market policies are therefore important in this process.⁶⁶

⁶⁴International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.23-24

⁶⁵International Programme on the Elimination of Child Labour (IPEC), 2013. “*World Report on Child Labour: Economic vulnerability, social protection and the fight against child labour*”. International Labour Office, p.11

⁶⁶International Programme on the Elimination of Child Labour (IPEC), 2013. “*World Report on Child*

The effectiveness of laws and policies certainly differs, but all laws have the same aim; regulate or change certain behaviors and social norms. The effectiveness of the law depends on the enforcement of it. In general, if there are severe punishments for violating a law, individuals in the society tend not to disobey them, but on the other hand when penalties are low it is likely that the laws are being ignored. If individuals are willing to change their social and cultural norms and follow new legislation depends on the trust and positive belief the individuals and the society has in the new norm. If information and trust regarding the legislation is provided, the society is more likely to accept it and change its behavior to be conforming to the new set of rules. However, if this is not achieved, the society may ignore the law, not least if there are weak sanctions for doing so.⁶⁷ Social and cultural differences do also have an impact on child labour. For example, all societies do not consider all kinds of child labour wrongful, where the practice of introducing children to labour is culturally and morally accepted.⁶⁸ Nonetheless, national law can set standards and change social norm in the society through enforcing the practice of prohibiting child labour. Clear and effective legislation certainly impacts the perceptions of child labour, and the social acceptance for it. But changing social- and cultural norms takes time.⁶⁹

As indicated, social and cultural norms are extremely important. Often the child's parents are the ones organizing the child's enrollment in labour, which makes child labour depending to a large extent on the parents' basic perception on child labour. Sporadically children are even used to work to pay off debts that the child's parents have. Studies have also shown that the level of parental skills and education may have a significant affect on the turnouts. This is also linked to the knowledge of hazardous work within the society, which also affects the child's participation in certain jobs. For example, in regard to hazardous work it is important to note that parents and the child

Labour: Economic vulnerability, social protection and the fight against child labour". International Labour Office, pp.11-13

⁶⁷ Xenitidou Maria , 2014. "*Complexity of Social Norms*". Springer: Berlin, pp. 41-42

⁶⁸ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.87-94

⁶⁹ Xenitidou Maria , 2014. "*Complexity of Social Norms*". Springer: Berlin, pp. 41-42

often are not fully aware of that the work that is ought to be performed is hazardous, nor that it causes harm to the child's health and further life and development.⁷⁰

Apart from legislation, social and cultural norms, and knowledge about the effects of child labour on children; economic vulnerability is a major contributor. This means that imbalances and changes in the society affect the family situation. Political- and social changes as well as economic crises, have a strong correlation to the usage of child laborers.⁷¹ These economic vulnerability factors for families and the society as a whole are an important factor to look at. Also the risk of being exposed to financial shocks through increases the turnouts of child labour.⁷²

By introducing children to work gives families extra financial income, which often is vital for maintaining a decent life.⁷³ Another aspect affecting the occurrence of child labour is the specific family situation. If a child is living with a single parent, or if there are certain conditions, which make the family's income be less, such as illness or other casualties that result in the parents not being able to work, this increases the likelihood for child labour to occur. There are also external factors that foster child labour, such as if the family and the child is racially or ethnically belonging to a minority group, which may result in social exclusion.⁷⁴

The market demand also influences child labour, where employers may seek to use child labour for financial reasons but also due to the fact that children are easy to discipline.⁷⁵ Nonetheless, one of the basic key instruments to eradicate child labour is to improve the

⁷⁰ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.87-94

⁷¹ Ibid.

⁷² International Programme on the Elimination of Child Labour (IPEC), 2013. "*World Report on Child Labour: Economic vulnerability, social protection and the fight against child labour*". International Labour Office, pp.11-13

⁷³ Ibid.

⁷⁴ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.87-94

⁷⁵ International Programme on the Elimination of Child Labour (IPEC), 2013. "*World Report on Child Labour: Economic vulnerability, social protection and the fight against child labour*". International Labour Office, pp.11-13

social protection floor, which provides legal, financial and educational benefits for children and its family.⁷⁶

That a child has limited or even no access to educational institutions or other alternatives than to enter the labour market, also has a strong relation to child labour. Absence of school- and educational opportunities due to for example the number of schools and number of children they take, lack of private finances to sustain the family's ability to enroll their children in educational programs are some of the factors hindering children from education.⁷⁷ States have an obligation to ensure that there is free primary education for all children. Nonetheless, an obstacle that occurs when only focusing on legislation is that the educational systems often are not flexible enough to provide educational opportunities to all children. For example, if a child is released from child labour and supposed to attend school at the age of 11, their level of educational skills are relatively low, often resulting in that the schools are not admitting them or can provide them with sufficient education matching their individual needs and skills.⁷⁸

It is important to recognize that the factors of child labour vary, and often it is a combination of various elements, which finally lead to a child being engaged in child labour. It is not to be taken for granted that all children that for example are living under poor circumstances are victims of child labour. Families living under similar circumstances and opportunities have been shown not to act in the same manner in this regard, even though there are correlations that indicate a stronger turnout for child labour.⁷⁹

⁷⁶ International Programme on the Elimination of Child Labour (IPEC), 2013. "*World Report on Child Labour: Economic vulnerability, social protection and the fight against child labour*". International Labour Office, pp.11-13

⁷⁷ Ibid, pp.11-18

⁷⁸ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.118-119

⁷⁹ Ibid, p.102

2.7 LINKS TO OTHER HUMAN RIGHTS

Child labour is in itself a severe human rights violation. By using child labour other human rights are affected, and often violated as well.⁸⁰ Human rights are by their definition “all interrelated, interdependent and indivisible”.⁸¹ This further confirms that child labour is related to other fundamental human rights.⁸² This important definition is significant to keep in mind when exploring the rights of the child, not least in relation to labour. Among others, child labour has a link to the right to education, forced labour, the right to health, discrimination and the freedom of association and to collect bargain.⁸³ The fundamental principles and rights at work are all linked to child labour. These 4 principles are: “freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation”.⁸⁴ Where there is freedom of association and workers are organized into trade unions, there is unlikely to be any child labour.⁸⁵

Since human rights are by its definition “inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status”, all individuals, including children are entitle to their fundamental human rights without discrimination. Nonetheless, if a child is used for child labour, several of the child’s fundamental human rights may be violated, not least in relation to discrimination, as it is inherent in all human rights principles.⁸⁶

⁸⁰ International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp. 112-119

⁸¹ United Nations Human Rights, accessed: 12.04.2015. “*What are human rights?*”. OHCHR, www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

⁸² Ibid.

⁸³ United Nations Human Rights, accessed: 12.04.2015. “*What are human rights?*”. OHCHR, www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

⁸⁴ Report of the Committee of Expert, “*Giving Globalization a Human Face*”. International Labour Conference, 101st Session, 2012, pp.1-4

⁸⁵ Ibid.

⁸⁶ United Nations Human Rights, accessed: 12.04.2015. “*What are human rights?*”. OHCHR, www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

There is a strong connection to discrimination and minorities and other vulnerable groups in the society. Children are one form of groups that suffer discrimination in general and may be more at risk for abuses on the labour market, which may result in child labour. Besides, girls may be more subject to child labour due to stereotypical and discriminatory attitudes that boys, not least in the garment industry where mostly girls are working.⁸⁷

The right to education is one of the human rights, which shows the strongest correlation to child labour. This right is of key importance for the child's socio-economic development. Child labour has more or less a direct affect to the child's education and vice-versa, and has become an important tool for eliminating child labour.⁸⁸ On the international level there have been great achievements by recognizing the linkage between education and the elimination of child labour. The ILO Minimum Age Convention No.138 and The Convention on the Rights of the Child (CRC) establish together a fundamental ground for such progress, where Convention No.138 was the first document recognizing the challenges of child labour and education. It endorsed an age limit for minimum age for employment and emphasizes that primary education should extend to that specific age, resulting in that there is no gap between the legal age of working and when the compulsorily schooling-age is reached. It sets out obligations to States to ensure that children are not engaged in fulltime work before this age. It is understandable that all States globally, such as developing countries, cannot expand their minimum age for employment promptly; however the agreement seeks to increase this age up to the age of 16.⁸⁹

Forced labour is another main human rights violation related to child labour. In this category slavery and debt bondage belongs, but also human trafficking and prostitution. Being engaged in forced labour is among the work forms of "work", and by international

⁸⁷ The NGO Group for the CRC Sub-Group on Child Labour, 2002. *"The impact of discrimination on working children and on the phenomenon of child labour"*. Switzerland: Geneva, p.1

⁸⁸ International Labour Office, 2004. *"Child Labour: A textbook for university students"*. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, pp.112-119

⁸⁹ International Programme on the Elimination of Child Labour (IPEC), 2013. *"World Report on Child Labour: Economic vulnerability, social protection and the fight against child labour"*. International Labour Office, pp.3-4

law cannot be used against anyone, except from in very few occasions such as preforming civil obligations. Forced labor restricts a individuals freedom which in itself is a human rights violation.⁹⁰ All in all, numerous of the child's human rights are at stake if entering into child labour. Not least the right to education, which is mentioned above, but also the right to health. The health aspect is certainly a matter for all varieties of child labour. The right to health is often at stake for children working. Children are often preforming dangerous and hazardous work and they often lack access to basic health care. This implies that children are at risk for life-long health issues limiting their socio-economic development in the future.⁹¹ Nonetheless, that national law exists and are well-functioning to regulate, monitor and implement fundamental human rights provisions are key in the process of eliminating child labour.⁹²

⁹⁰ Belser Patrick, 2005. *“Forced labour and human trafficking: Estimating the profits”*. Geneva: International Labour Office, pp.3-4

⁹¹ United Nations, accessed 18.04.2015. *“Child Labour”*. United Nations. www.un.org/en/globalissues/briefingpapers/childlabour/index.shtml

⁹² International Labour Office, 2004. *“Child Labour: A textbook for university students”*. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.203

3. BANGLADESH AND CHILD LABOUR

3.1 BANGLADESH AND ITS GARMET INDUSTRY

Bangladesh has a total population of 166 million (in 2014), and according to The World Bank, 31.5 percentages of the total population were living under the poverty line in 2010. Poverty undoubtedly mirrors individuals and families socio-economic development, and reflects upon the total number of child laborers in the country. Since 1996, Bangladesh's economy has grown rapidly with approximately 6 percentages each year, even if the Country has suffered by high levels of corruption, political instability, the financial crises and regression that hit the country between 2008 and 2009.⁹³ Bangladesh's national population is even with today's financial growth in the Country still remaining poor. As mentioned approximately 1/3 of all individuals are still living under the poverty line. Individuals living under these poor circumstances are to a greater extent living in urban areas (approximately 43.8%), while individuals living in rural areas have better financial prospects (around 28.4%).⁹⁴ The country is overpopulated as well as it has a relatively young population. Individuals between the ages of 5 to 17 are roughly accounting for 1/3 of the total population (31.5%), which also affects the demand of children on the labour market.⁹⁵

The service sector generates more than half of the total GNP, which is noteworthy when more than half of the total labour force is working within agriculture, which 'only' comprise 18 percentages of the total GNP. Garment is the most substantial and important export the country has and consists of nearly 80% of the country's entire export.⁹⁶ This is about 12% of the total GDP.⁹⁷ The garment export is the most

⁹³ Central Intelligence Unite, CIA, Accessed: 14.01.2015. "*The world fact book: Bangladesh*". CIA, www.cia.gov/library/publications/the-world-factbook/geos/bg.html

⁹⁴ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.7

⁹⁵ Ibid.

⁹⁶ Central Intelligence Unite, CIA, Accessed: 14.01.2015. "*The world fact book: Bangladesh*". CIA, www.cia.gov/library/publications/the-world-factbook/geos/bg.html

important export for Bangladesh,⁹⁸ and is also one of the fundamental pillars of the whole country's economy. The industry provides millions of farmers, families and children with a financial income as well as it enriches the country with foreign exchange from the large export.⁹⁹ It is a strong and maintaining industry, and even though there have been both strikes and factory accidents during the last couple of years hindering, or even totally shutting down most of the economic activity in this sector.¹⁰⁰

Strong influence by trade relations, and the Multi-Fiber Arrangement (MFA) largely impacted and shaped Bangladesh's garment industry. This arrangement was in place between the years of 1974 until 2005 when the MFA ended. The arrangement "placed quota restrictions on the amount of textile and garment products developing countries could export to developed countries. Unable to export to developed markets, many East Asian firms began to invest or relocate to Bangladesh, where labor costs were significantly lower. Those foreign firms, either in the form of direct investment or joint ventures, have led the growth of a complex subcontracting system in the garment sector, thus giving rise to an active informal garment industry",¹⁰¹ underpinning the use of child laborers in this sector.¹⁰² Today there are approximately 3.500 formal export garment factories in the country, which all are supposed to follow and respect the legislation on child labour and are required to be monitored through labour inspection to fully insure workers' rights in the formal garment sector.¹⁰³

⁹⁷ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.12

⁹⁸ Ibid.

⁹⁹ Plastina Alejandro, 2009. "*Child Labor in the Cotton and Textile Sectors*". International Cotton Advisory Committee, USA: Washington, p.3

¹⁰⁰ Central Intelligence Unit, CIA, Accessed: 14.01.2015. "*The world fact book: Bangladesh*". CIA, www.cia.gov/library/publications/the-world-factbook/geos/bg.html

¹⁰¹ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

¹⁰² Ibid.

¹⁰³ International Labour Organization, 2015. Rana plaza: *Two years on: Progress made & challenges ahead for the Bangladesh RMG sector*". International Labour Office: Geneva, pp.9-13

3.2 CHILD LABOUR IN BANGLADESH

Bangladesh has a large labour force of children, even if all of these children are not considered to be child laborers. It is estimated that 7.4 million children are working in any economic activity between the ages of 5-17, while 4.7 million of these are between the ages of 5-14. Boys are to a larger extent used for labour more than girls, where it is estimated that nearly 3.4 million boys and 1.3 million girls in the ages 5 to 14 are taking part in the labour market.¹⁰⁴ However, it is estimated that about 3.2 million children between the ages 5-17 are today trapped in different conditions considered as child labour in the country.¹⁰⁵ The UCW Country Report from year 2011 recognizes that children's employment in Bangladesh is characterized by a relatively high urban prevalence, large geographic disparities and by the relative importance of the service and manufacturing sectors.¹⁰⁶

The use children in the labour market depends largely on poverty and on the production costs for the employer. Due to the high poverty level in the Country, families often have no other alternative than to engage their children in the labour market. The production costs for the employer is also essential. To employ children cost less for them than to employ an individual over the minimum age. There is also a cultural and normative aspect to the practice of child labour. Research has shown that often both the family and the child do not have a specific interest in education, as they believe that education is not the fundamental key to a wholesome life, which also effects the common norms concerning importance of education and the willingness to work.¹⁰⁷ Nonetheless, what is not widely known by the population is that by letting children work consequences to the child's socio-economic development follow. The long-term socio-economic effect of education is set aside for the fast outcomes provided by child labour. This is also

¹⁰⁴ Programme on the Elimination of Child Labour, (IPEC), 2006. "Bangladesh: Child Labour Data: Country Brief". International Labour Office, Geneva, pp.4-5

¹⁰⁵ UNICEF, 2010. "*Report: Child Labour in Bangladesh*". UNICEF: Bangladesh

¹⁰⁶ Understanding Children's Work (UCW) Programme, 2011. "*Understanding Childrens Work in Bangladesh*". Country Report Series. UCW: Rome, pp.21 -23

¹⁰⁷ G. Gunter Bernhard, Nashir Uddin Mohammad and Hamiduzzaman Mohammad, 2009. "*Physical and Psychological Implications of Risky Child Labor: A Study in Sylhet City, Bangladesh*". Bangladesh Development Research Center (BDRC), p.1

reflected in the engagement in education, where 2.6 million children in the country between the ages of 5-14 are not enrolled in any educational system, this is an estimate of 7.3 per cent of all the children in Bangladesh.¹⁰⁸

Research confirms that 96 percentages of all the child laborers in Bangladesh are working in the informal sector. This results in that only 4 percentages of all the child laborers are working in the formal sector, which is a very small percentage of the total amount of child laborers.¹⁰⁹ The largest sector in Bangladesh employing children under the age of 15, with approximately 60%, is the agricultural sector, while the service sector contains an estimate of about 23 percentages. The industrial sector includes the remaining children, where about 15% of the children are employed.¹¹⁰ The industrial informal sector employs roughly 1.4 million children which is about 17.7% of the total child labour force.¹¹¹

When comparing Table 3 and 5 which were presented in the previous chapters the data shows that when it comes to child labour within age group 5-17 Bangladesh does not show the highest percentage amount in the Asia-Pacific region, but when looking at hazardous work in the age group 15-17 the country with the highest amount of children involved in hazardous work is by far Bangladesh. Yet, the overall numbers of child labour in Bangladesh are slowly decreasing which is a very positive outcome. But, there are still alarming numbers of widespread child labour in all sectors in the country.¹¹²

¹⁰⁸ Programme on the Elimination of Child Labour, (IPEC), 2006. “*Bangladesh: Child Labour Data: Country Brief*”. International Labour Office, Geneva, pp.4-5

¹⁰⁹ International Labour Organization, Accessed: 09.01.2015. “*The effective abolition of child labour*”. www.ilo.org/public/english/standards/realm/gb/docs/gb280/pdf/gb-3-2-abol.pdf, p. 213-214

¹¹⁰ Programme on the Elimination of Child Labour, (IPEC), 2006. “*Bangladesh: Child Labour Data: Country Brief*”. International Labour Office, Geneva, pp.4-5

¹¹¹ International Labour Organization, Accessed: 15.05.2015. “*Child Labour and Responses in South Asia: Bangladesh*”. ILO.

www.ilo.org/legacy/english/regions/asro/newdelhi/ipec/responses/bangladesh/index.htm

¹¹² ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.8

3.2.1 CHILD LABOUR IN THE GARMET INDUSTRY

There are today approximately 3.500 export garment factories in Bangladesh,¹¹³ which indicates the significance of the industry for the whole country. Before 1992 there was an estimate of 50-75.000 children carrying out labour in the whole garment sector in Bangladesh under the age of 14. Among these children the majority were underage girls.¹¹⁴ However, only in the formal sector this number was estimate to be around 10-30.000 children employed at this time.¹¹⁵ Nonetheless, this can be an underestimate as statistics and other relevant data were limited or even non-existent at this time. Even today the statistics of child labour in the country is troublesome, which also have been pointed out by for example the CRC supervisory body that has made recommendations to the country recently to ensure a more up-to-date databank with statistics relating to children, and enrollment in labour and education especially.¹¹⁶

Nevertheless, after the introduction of the Harkin Bill in 1992 by the US Senate, aiming to abolish all import from manufacturers that had children working for them under the age of 14, significant changes occurred during a very short time-period. The suggested Bill did not pass, but had a major effect on the development and numbers of child laborers in the garment industry, not least in the formal sector.¹¹⁷ The formal sector currently has been declared free from child labour, even if there are occasionally reported violations.¹¹⁸ Nevertheless, it is important not to forget that it is common that larger formal units make sub-contracts with smaller firms and household producers,

¹¹³ International Labour Organization, 2015. *Rana plaza: Two years on: Progress made & challenges ahead for the Bangladesh RMG sector*. International Labour Office: Geneva, pp.9-13

¹¹⁴ UNICEF, Accessed: 27.01.2015. *Ideas and Actions*. UNICEF. www.unicef.org/sowc97/download/sow2of2.pdf, p.60

¹¹⁵ ICF International, 2012. *Child Labor in the Informal Garment Production in Bangladesh*. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

¹¹⁶ UN Committee on the Rights of the Child (CRC), accessed 17.05.2015. *Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Bangladesh, 26 June* 2009, CRC/C/BGD/CO/4, www.refworld.org/docid/4a8e977d0.html

¹¹⁷ ICF International, 2012. *Child Labor in the Informal Garment Production in Bangladesh*. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

¹¹⁸ Ibid.

which fall outside the scope of legal regulation or are not frequently controlled.¹¹⁹ Observations at work sites also confirm that larger units have less children working in their production sites than smaller units.¹²⁰

After the Harkin bill was suggested, in 1993, The Bangladesh Garment Manufacturers & Exporters Association (BGMEA) did respond by calling upon all manufacturers not to hire and discharge all children under the age of 14 from labour. Approximately 50,000 children were dismissed or eventually removed during relatively few years.¹²¹ As these measures promptly showed effect children needed alternatives to not again enter the labour market. The Memorandum of Understanding (MOU) program, which is a program in collaboration between the BGMEA, the United Nation Children's Fund (UNICEF) and the ILO- International Programme on the Elimination of Child Labour (IPEC) started in 1995, only 2 years after the Harkin bill was suggested. MOU is a program attempting to remove children working in industries and in garment factories in particular, and introduce them into the educational system, which resulted in very positive outcomes - a child labor free formal garment sector.¹²² The aftermath of these events will be discussed and examined in the following chapters.

3.2.2 HAZARDOUS WORK IN THE GARMET INDUSTRY

Roughly 1.3 million of all the children under the age of 18 engaged in child labour in Bangladesh are also engaged in hazardous work.¹²³ Among the Asia-pacific countries Bangladesh has the highest percentage of the total child laborers in the ages between 5-

¹¹⁹ Plastina Alejandro, 2009. *“Child Labor in the Cotton and Textile Sectors”*. International Cotton Advisory Committee, USA: Washington, p.5

¹²⁰ ICF International, 2012. *“Child Labor in the Informal Garment Production in Bangladesh”*. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 1-4

¹²¹ UNICEF, Accessed: 27.01.2015. *“Ideas and Actions”*. UNICEF. www.unicef.org/sowc97/download/sow2of2.pdf, p.60

¹²² ICF International, 2012. *“Child Labor in the Informal Garment Production in Bangladesh”*. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

¹²³ UNICEF, 2010. *“Report: Child Labour in Bangladesh”*. UNICEF: Bangladesh

17 that are working under such conditions.¹²⁴ In the garment industry these numbers are still unknown, but field studies through interviews show that this practice is far from eliminated in the garment industry.¹²⁵

Reports have provided insights showing that garment workers frequently are working in unsafe and hazardous environments and often under very exploitive working conditions. Frequently there have been situations where for example the emergency exits were locked, which lead to sever suffering, injuries and even deaths when accidents occur.¹²⁶ In the garment sector children are especially in need of special protection. In relation to hazardous work children have been reported to work for much more hours than permitted and also to be exposed to numerous hazards. These are “loud noise, lack of fresh air, extreme temperatures, sharp tools, machinery, machine oil, and dust, all of which can make the work environment more difficult for them”,¹²⁷ and not least harm the health and further development of a child if being exposed to such conditions.

Provided by a report based of questions asked to children in the sector only 10 percent of the children confirmed that safety equipment was offered to them, this is further confirmed by workplace observations. Significantly is that there were few child laborers that stated that they had been ill-treated at the work site by their employer nor considered to be working in worst forms of child labour. They did not view the work as dangerous nor did they feel fear for performing the work. Nonetheless, 20 percent of the children did however state that they have been having work related injuries within the last year. “Wounds/cuts, burns, and broken bones”,¹²⁸ are the most common injuries reported.¹²⁹ Concerning the working conditions in forms of working days and hours almost all children confirmed that they were working extreme long working days,

¹²⁴ Khan Sherin , Lyon Scott, 2015. “*Measuring children’s work in South Asia - Perspectives from national household surveys*”. International Labour Organization (ILO) and Understanding Children’s Work (UCW), p.8

¹²⁵ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 1-4

¹²⁶ Ibid, pp. 12-13

¹²⁷ Ibid, pp. 1-4

¹²⁸ Ibid.

¹²⁹ Ibid.

approximately 10.5 hours, and that they only got one free day a week. Nevertheless, many children reported that they worked even longer hours per day.¹³⁰

Apart from the hazards, children and other workers are frequently exposed to situations related to financial aspects, where the workers often are unprivileged and mistreated by their employer. In general salaries are considerably high for skilled workers in the garment industry, however, the employer often puts the workers in a difficult power relationship which forces them to work overtime, or pays out their salaries later than usual. In some cases workers are denied full-leave benefits. Certainly, the working benefits and conditions for garment workers have been a problematic issue in Bangladesh, which also has steamed into several forceful demonstrations.¹³¹ Certainly these kinds of situations create a unsafe environment and life for workers, and especially children's which depends to a major extent of the employer.

3.2.3 CAUSES OF CHILD LABOUR IN THE GARMENT INDUSTRY

As also mentioned before, there are numerous causes of child labour. A clear trend of why this occurs in Bangladesh and in the garment industry shows that socio-economic standards related to poverty, growth of population and lack of education are three main factors. Undoubtedly, social- and cultural norms also have a major impact.¹³² Besides, lack of legislation and legal enforcement is also maintaining and underpinning the practice of employing children.¹³³

Concerning the poverty aspect, children belonging to families that are living under the poverty line often work to provide the family with an extra financial income. This is the largest reason for why 90 percent of the children work in this sector. Nevertheless, it is

¹³⁰ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor,, pp. 12-13

¹³¹ Ibid.

¹³² Mafizur Rahman Mohammad, Khanam Rasheda, and Uddin Absar Nur, 1999. "*Child Labor in Bangladesh: A Critical Appraisal of Harkin's BiU and the MOU-Type Schooling Program*". Journal of economic issues Vol. XXXIII No. 4

¹³³ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.203

important to note that about 90 percent of these children additionally have a dysfunctional family, where they were living with one parent or even were orphans.¹³⁴

The growth of the population in the country is another factor to take into consideration. The problematic overpopulation results in unemployment which makes workers take jobs in the informal economy,¹³⁵ as well as the fact that the population has a very young middle age, creating a demand of workers.¹³⁶ The fact that children are cheaper to employ and do not file complaints against their employer, is also contributing to why child laborers are attractive for employers.¹³⁷

The educational system and level is correspondingly related to the growth of the population where more and more children need primary education, which also is hard to obtain from a country in poverty. The link between child labour and education is one of the strongest links. “Among the 42.4 million of children ages 5–17 years, approximately 5 million (11.8%) were working and not attending school. Furthermore, nearly 50 percent of primary school students drop out before they complete grade 5”.¹³⁸ The main reason for the drop out is that the child is starting to work, to receive a financial income.¹³⁹

Cultural and moral aspects concerning child labour differ, even within the country. Nonetheless, it contributes to introducing children on the labour market. One examples of this is that in less developed parts of the country, the children’s parents follow the believe that education is wrongful for girls. This certainly is one major indicator of how social- and cultural norms affects a child’s socio-economic development. Often this depends on the parents’ education and that they lack awareness of how this will affect

¹³⁴ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 9-10

¹³⁵ Ibid.

¹³⁶ Ibid. p.7

¹³⁷ Ibid, pp.9-10

¹³⁸ Ibid.

¹³⁹ Ibid.

the child in the long-term.¹⁴⁰ Furthermore, the economic stability in the family is relevant. Not least in relation to the major health problems in the country and lack of health care leading to a loss of income, which forces children to work and provide health care for him- or herself, or even the entire family.¹⁴¹

¹⁴⁰ Mafizur Rahman Mohammad, Khanam Rasheda, and Uddin Absar Nur, 1999. “*Child Labor in Bangladesh: A Critical Appraisal of Harkin's BiU and the MOU-Type Schooling Program*”. *Journal of economic issues* Vol. XXXIII No. 4

¹⁴¹ *Ibid*, pp. 9-10

4. INTERNATIONAL LAWS ON CHILD LABOUR

Ratifications of international human rights conventions by States are both important and substantial for eliminating child labour. It binds States to international obligations which it has to comply with as well as it gives a commitment to the international community and the society that the State will carry out the changes that are needed to fully comply with a specific convention or standard. States bind themselves to the international community and give them, through supervisory bodies, the authority to supervise and monitor the implementation and application of standards and conventions, as well as to provide guidance on how to make changes to existing or forthcoming legislation to fully comply with the agreed principles. States themselves have to report back on these matters on a regular basis to the specific bodies initiated by the convention that is ratified. Giving this authority to the international community and bodies gives them the command to claim violations of specific provisions in the convention against them. All international Conventions have different supervisory bodies, but they all have the same purpose: to monitor and give effect to important principles so individuals can enjoy their fundamental human rights - which by law are entitled to them.¹⁴²

By tracing the ratification process by Bangladesh on international standards in relation to children's rights in relation to labour the country adopted the Convention on the Rights of the Child (CRC) in 1990,¹⁴³ which is a major breakthrough. After ratifying the first international document for children's rights the international community's awareness and interest increase, followed by the proposed Harkins Bill in 1992 that was overruled the year after in 1993.¹⁴⁴ The years after these events one of the main focuses was on fundamental labour rights in the garment industry, and to a large extent on the rights of the child. Bangladesh eventually came to ratify the International Covenant on

¹⁴² International Labour Office and the Inter-parliamentary Union, 2002. *“Eliminating the worst forms of child labour: A practical guide to ILO Convention No. 182: Handbook for parliamentarians”* No. 3, P.35.

¹⁴³ United Nations Human Rights, Accessed: 15.12.2014. *“Ratification of 18 International Human Rights Treaties: Bangladesh”*. OHCHR. www.indicators.ohchr.org

¹⁴⁴ ICF International, 2012. *“Child Labor in the Informal Garment Production in Bangladesh”*. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

Cultural Economic and Social Rights (ICESCR) in 1998, and two years after, in 2000, they ratified the International Covenant on Civil and Political Rights (ICCPR).¹⁴⁵ The following year Bangladesh made further improvements of strengthening their international obligations regarding labour rights when they in 2001 adopted the Worst Forms of Child Labour Convention, 1999 (No. 182). Since this year Bangladesh's Government has frequently mentioned its intention to ratify Convention no.138.¹⁴⁶ The conclusions that can be drawn from these events are that international pressure and awareness made Bangladesh focus on children's rights. By ratifying a convention the intentions of complying with them becomes greater and, in the case of Bangladesh, they adopted several international legal documents during a short time-span. The following paragraphs will provide more detailed explanations of what these important pieces of documents contains, departing from the legislation established by the United Nations (UN), followed by international standards established by the International Labour Organization (ILO).

4.1 UNITED NATIONS

Under general international- and human rights law there are many internationally recognized legal documents acknowledging the prohibition of child labour. Such important legal recognition for children's rights has developed over a relatively long time-span and today there is adequate legal protection related to children, even if the enforcement of the legislation is lacking in many States globally. The Bill of human rights, consisting of the Universal Declaration of Human Rights (UDHR),¹⁴⁷ the International Covenant on Civil and Political Rights (ICCPR),¹⁴⁸ and the International Covenant on Economic Social and Cultural Rights (ICESCR),¹⁴⁹ together establish the

¹⁴⁵ United Nations Human Rights, Accessed: 15.12.2014. "*Ratification of 18 International Human Rights Treaties: Bangladesh*". OHCHR. www.indicators.ohchr.org

¹⁴⁶ International Labour Organization, accessed: 23.05.2015. "*Bangladesh - Country baselines under the ILO Declaration Annual Review (2000-2008): Effective abolition of child labour (CL)*". ILO , www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_CL_BGD/lang--en/index.htm

¹⁴⁷ Universal Declaration of Human Rights, General Assembly Res. 217A (III), 10 December 1948

¹⁴⁸ International Covenant on Civil and Political Rights (1976) 999 UNTS 171. Adopted by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976

¹⁴⁹ International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature,

legal basis for children's rights under general international law. As the UDHR in practice is a Declaration, many of its provisions are not legally binding even if a selection of its provisions has become recognized as customary law. The ICCPR and the ICESCR are treaty-based covenants, which means that they are so-called hard law that requires States ratification.¹⁵⁰ The ICCPR and the ICESCR were initially adopted by the United Nations at the same time; 16 December 1966, and entered into force 3 January 1976. Why two separate covenants were needed and finally established instead of one can be traced in our history. During this era, civil and political rights were viewed differently from economic, social and cultural rights and therefore also divided into two independent covenants. The link between these two sets of rights was not recognized as today. The main difference between these two sets of rights are that economic, social and cultural rights are through their legal definition progressive rights which can be implemented during a longer time-span, depending on the specific states development, history and progress, while this is not the case with civil and political rights, where a more hands-on approach is applicable and immediate implementation is required.¹⁵¹ Interesting for this discussion is that Bangladesh has ratified both these important and fundamental Covenants, and is therefore also obliged to comply with their legal provisions. A part from these covenants, Bangladesh has additionally ratified the Convention on the Rights of the Child (CRC), which is one of the first fundamental human rights conventions recognizing children's rights.¹⁵²

It is important to keep in mind that to respect, protect and fulfill human rights are the core principles for State obligations. "The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfill means that States must take positive action to facilitate the

ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

¹⁵⁰ Cotula Lorenzo, Vidar Margret, 2003. "*Applicable law and principles*". FAO Legal Office: Rome, Chapter 1

¹⁵¹ R. K. M. Smith, 2007. "*Textbook on International Human Rights*", 3 Edition, Oxford University Press: Oxford, pp. 41 - 42

¹⁵² United Nations Human Rights, Accessed: 15.12.2014. "*Ratification of 18 International Human Rights Treaties: Bangladesh*". OHCHR. www.indicators.ohchr.org

enjoyment of basic human rights”.¹⁵³ Human rights do not only impose obligations and duties on States, but also on individuals. Persons must respect the inherent rights of others. By applying this towards child labour it means that individuals (i.e. employers), for example, cannot hire underage children to work under conditions in contradiction to international standards, and if they do so they are ought to be punished in accordance with law.¹⁵⁴ Beneath the core international legal documents will be reviewed more detailed.

4.1.1 CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

The CRC is the first internationally recognized legal document acknowledging the fundamental human rights of the child. The Convention goes beyond the minimum age approach that is fundamental in the ILO’s Conventions and provides a broader regulatory approach. Almost all countries in the world have ratified the CRC,¹⁵⁵ including Bangladesh, which ratified the Convention in 1990,¹⁵⁶ which indicates the strong support for the Convention as the inherent rights of children. This Convention is, as mentioned above, ratified two years before the proposal of the Harkin Bill, but around the time that concerns over child labour arose. Clearly the two together had great impact on the following events in Bangladesh and the legal recognition of children’s rights in relation to labour.¹⁵⁷

¹⁵³ United Nations Human Rights, accessed: 12.04.2015. “*What are human rights?*”. OHCHR, www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

¹⁵⁴ Ibid.

¹⁵⁵ International Labour Office and Inter-Parliamentary Union, 2002. “*Eliminating the worst forms of child labour, a practice guide to ILO Convention no.182*”. ILO: Geneva, p.17

¹⁵⁶ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

¹⁵⁷ D Hindman Hugh and Quddus Munir, 2009. “*The World of Child Labor: An Historical and Regional Survey: Bangladeshi Garment Industry: From the Harkin Bill to the Bangladesh Garment Manufacturers and Exporters Association*”. Routedge: United States, pp. 772-774

The CRC defines a child under Article 1 as an individual under the age of 18. Article 32 of the Convention, similar to the ICESCR which will be discussed further below, prohibits the exploitation of children in economic activities, as well as it declares in its first paragraph that children shall be safeguarded “from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development”.¹⁵⁸ In the second paragraph of the article it underlines that States are obliged to legislate and regulate the minimum age for employment, the working conditions including working hours, as well as to adopt specific legislation for penalties and punishment for violation of these provisions. States have an obligation to take action and introduce penalties for human rights violations in relation to child labour, to be able to obtain effective legislation protecting children and their fundamental human rights.¹⁵⁹

4.1.2 UNIVERSAL DECLARATION OF HUMAN RIGHTS

As also mentioned above, the Universal Declaration of Human Rights is by its establishment as a Declaration not a legally binding document even if many of its provisions today are recognized as customary law.¹⁶⁰ The UDHR declares under Article 4 that: “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”.¹⁶¹ As can be noticed there is no prohibition of the specific term ‘child labour’, even if certain forms of child labour can be interpreted to be included under this provision.¹⁶² This will further be explored in the next section as related to the ICCPR, as it embraces the same provisions but is by its nature legally binding.

¹⁵⁸ Convention on the Rights of the Child adopted by the General Assembly resolution 44/25 of 20 November 1989 and entered into force 2 September 1990

¹⁵⁹ Ibid.

¹⁶⁰ Cotula Lorenzo, Vidar Margret, 2003. “*Applicable law and principles*”. FAO Legal Office: Rome, Chapter 1

¹⁶¹ Universal Declaration of Human Rights, General Assembly Res. 217A (III), 10 December 1948

¹⁶² Ibid.

4.1.3 THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The International Covenant on Civil and Political Rights compliments the prohibition established by the UDHR. Article 8 declares for that States have an obligation to ensure that no one is held under conditions regarded as slavery, servitude or other forms alike.¹⁶³ The Covenant does neither have a particular prohibition or regulation for child labour; nonetheless, it applies to children. The prohibition of the use of slavery and servitude is an absolute right, meaning that such circumstances are forbidden in all its forms.¹⁶⁴ These two phrasings are very similar, but it is important to separate them as they apply to different circumstances. Slavery refers to situations of ownerships which can be linked to for example human trafficking, while the holding a individual in servitude on the other hand refer to that individuals that are under the supervision of a person or group, which is receiving a economic winning by the arrangement, such as by debt bondage.¹⁶⁵ Article 8 does however include a provision for forced and compulsory labour under paragraph 3. On the contrary to slavery and servitude this is not an absolute prohibition, meaning that some of these forms of labour are lawful. This regulation excludes certain areas, such as forced or compulsory labour during military service, under detention or during so-called normal civil obligations.¹⁶⁶ Nonetheless, the conclusions that can be drawn from this is that it does not include exclusions that would cover child labour in the garment industry in Bangladesh. Meaning that such labour remains, under all circumstances, unlawful. These three different forms of violations related to labour are very similar, but include different kinds of regulations and prohibitions, which are important to keep in mind while determining under which category an assumed violation shall belong.¹⁶⁷ Bangladesh ratified the ICCPR already

¹⁶³ International Covenant on Civil and Political Rights (1976) 999 UNTS 171. Adopted by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976

¹⁶⁴ Nowak, M, 2005. *“U.N. Covenant on Civil and Political Rights: CCPR Commentary”*, 2nd revised edition, N.P. Engel Verlag, Kehl, p. 548

¹⁶⁵ Ibid, pp.195-196

¹⁶⁶ International Covenant on Civil and Political Rights (1976) 999 UNTS 171. Adopted by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976

¹⁶⁷ Ibid.

15 years ago in 2000,¹⁶⁸ and is therefore bound by its provision, and must consequently include these provisions in its national legislations.¹⁶⁹

4.1.4 THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The International Covenant on Economic, Social and Culture Rights was ratified and adopted by Bangladesh in 1998, 2 years before the adoption of ICCPR.¹⁷⁰ The State therefore has been required to comply with these international obligations for 17 years, which is a relatively long time-span to include the provisions in the national legislation.¹⁷¹ The ICESCR takes a different approach than the UHDR and the ICCPR. It includes the specific term ‘child labour’ and is under Article 10(3) declaring that States have an obligation to make sure that: “...Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should set age limits below which the paid employment of child labour should be prohibited and punishable by law”.¹⁷² This paragraph is very central for the discussion of child labour and includes several important aspects. A state ratifying the Covenant has to: protect children from economic and social exploitation; legislate minimum ages for paid employment, and; legislate penalties for violations of these provisions.¹⁷³ The ICESCR is in this sense providing a more comprehensive and detailed provision for eliminating child labour than the ICCPR.

To make a small conclusion on the important aspects that can be drawn from the ICCPR and the ICESCR in conjunction to each other, is that States have to ensure that no one

¹⁶⁸ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

¹⁶⁹ International Covenant on Civil and Political Rights (1976) 999 UNTS 171. Adopted by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976

¹⁷⁰ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

¹⁷¹ International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

¹⁷² Ibid.

¹⁷³ Ibid.

shall be held in slavery, servitude, forced or compulsory labour, or economic and social exploitation. Furthermore it declares for that States shall ensure appropriate measurements and tools to punish responsible individuals - that have used underage individuals in employment, which is by any means harmful for their health, life and even to the child's moral. The last important point is that the State has a superior obligation to legislate minimum age for paid employment, which equals to providing a basis in determining the limits of child labour.¹⁷⁴

4.2 INTERNATIONAL LABOUR ORGANIZATION

The International Labour Organization (ILO) is through its unique organization providing an international legal foundation for children engaged in labour. ILO's legal standards are established in forms of conventions that jointly are negotiated and agreed upon by governments, workers- and employers organizations. For these treaties to be binding, ratification by the ILO member states is a requirement. Once any of the ILO: s conventions have been ratified, the ratified document shall be legally binding and implemented in the ratifying States national legislation.¹⁷⁵

Concerns of child labour have during a long time period been on the international agenda and already in year 1919 the ILO adopted the ILO Convention No.5 on minimum age in Industry, prohibiting children under the age of 14 to work in industrial settlements.¹⁷⁶ Bangladesh has never been a signatory State to this convention;¹⁷⁷ nevertheless it shows the long internationally recognized importance for protecting children from certain work and working conditions. A wide range of conventions protecting children at the workplace and against child labour has emerged in different

¹⁷⁴ International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27, AND: International Covenant on Civil and Political Rights (1976) 999 UNTS 171. Adopted by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976

¹⁷⁵ International Labour Office and Inter-Parliamentary Union, 2002. *“Eliminating the worst forms of child labour, a practice guide to ILO Convention no.182”*. ILO: Geneva, pp.16-17

¹⁷⁶ ILO Convention No. 5 on minimum age (Industry), 1919

¹⁷⁷ International Labour Organization , Accessed: 15.12.2014. *“Normlex: Ratifications for Bangladesh”*. ILO, www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103500

sectors since this first recognition in 1919. After a relatively long time the ILO established a comprehensive Convention for minimum age for employment,¹⁷⁸ and as late as in 1976 the ILO Convention no.138 on minimum age for admission of Employment was adopted,¹⁷⁹ which even today is the fundamental approach from the ILO in the fight against child labour, in conjunction with the ILO Convention no.182 on the Worst forms of Child Labour.¹⁸⁰ When ratifying any of these conventions the State has an obligation to report every second year to the ILO supervisory body and their committee on the application of standards how the implementation process of the conventions is proceeding.¹⁸¹

Furthermore, in the ILO machinery there are four so-called fundamental principles and rights at work that are embraced in the ILO's Declaration on Fundamental Principles and Rights at Work. The membership to the ILO entails that all States, whether they have ratified this convention or not, have both to respect these fundamental principles and also to realize them gradually.¹⁸² These principles are: "freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation".¹⁸³ This is certainly a very significant approach and recognition for fundamental rights related to eliminating child labour. Even if States have not yet ratified any of the fundamental conventions on child labour, no.138 and convention no.182 they are still bound to progressively realize these rights.¹⁸⁴ However, the enforcement of the legislation is key for all legislation to be fully effective. In this regard, labour inspections are key to

¹⁷⁸ International Labour Office and Inter-Parliamentary Union, 2002. *"Eliminating the worst forms of child labour, a practice guide to ILO Convention no.182"*. ILO: Geneva, pp.16-17

¹⁷⁹ ILO Convention No. 138 on the Minimum Age for Admission to Employment, 1973

¹⁸⁰ International Labour Office, 2004. *"Child Labour: A textbook for university students"*. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.21 and 45

¹⁸¹ International Labour Office and Inter-Parliamentary Union, 2002. *"Eliminating the worst forms of child labour, a practice guide to ILO Convention no.182"*. ILO: Geneva, p.36

¹⁸² Ibid.

¹⁸³ Report of the Committee of Expert, *"Giving Globalization a Human Face"*. International Labour Conference, 101st Session, 2012, pp.1-4

¹⁸⁴ International Labour Office and Inter-Parliamentary Union, 2002. *"Eliminating the worst forms of child labour, a practice guide to ILO Convention no.182"*. ILO: Geneva, p.37

uphold labour standards and to identify work that can be unsuitable or hazardous for children.¹⁸⁵

4.2.1 CONVENTION NO.138 ON MINIMUM AGE FOR ADMISSION OF EMPLOYMENT

Convention no.138 on minimum age for admission of Employment apply to all sectors of work, and presently 167 countries have ratified the convention; nonetheless Bangladesh is not one of them.¹⁸⁶ The minimum ages incorporated in the convention are viewed as the basic standard globally. Therefore it is a guideline for knowing how the age-limits are regulated globally in order to be able to analyze the situation in relation to Bangladesh's national legislation, which also has a responsibility to regulate the matter as stipulated in the CRC.¹⁸⁷ Important to note is that Bangladesh is however striving towards ratifying Convention no.138 and has adopted a national policy covering minimum ages for work, namely the National Child Labor Elimination Policy of 2010.¹⁸⁸

To repeat the important legal standards that comes from this document is the specific principles of minimum age, which were previously discussed in Chapter 2 of this thesis, and under Table 1 in the same section. The table included is providing a clear overview of the specific legal standards. The age limit for minimum age for employment in developed states for countries such as Bangladesh, are different than for so-called developed States. The basic internationally recognized minimum age is 15 while it is 14 in States considered to be undeveloped. Hazardous work has the age limit at 18 in both cases; nonetheless exceptions to work in accordance with national legislation can be made from the age of 16. Light work on the other hand can be carried out between the

¹⁸⁵ International Labour Organization, 2015. Rana plaza: *Two years on: Progress made & challenges ahead for the Bangladesh RMG sector*". International Labour Office: Geneva

¹⁸⁶ International Labour Organization, Accessed: 15.12.2014. "*Normlex: Ratifications for Bangladesh*". ILO, www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103500

¹⁸⁷ Convention on the Rights of the Child adopted by the General Assembly resolution 44/25 of 20 November 1989 and entered into force 2 September 1990

¹⁸⁸ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.14

ages 13-15 in developed States, which is a difference with 1 year in comparison to undeveloped States that can have the age limits between the ages 12-14.¹⁸⁹

4.2.2 CONVENTION NO.182 ON THE WORST FORMS OF CHILD LABOUR

Convention no.182 on the Worst forms of Child Labour is on the contrary to Convention no.138 a relatively new Convention that was adopted by the ILO in 1999. 179 States, including Bangladesh in 2001, have ratified the Convention.¹⁹⁰

Following the time-line of ratifications and events discussed above, such as the proposed Harkin Bill, gave major effects of on the following events and actions in the country. That Bangladesh ratified convention no.182 in combination with the ratification of the CRC certainly a breakthrough for Bangladesh in terms of recognizing children's rights in regard to labour.¹⁹¹ Article 1 of the convention emphasizes the whole idea of the convention by underlining that States "shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency".¹⁹² Its provisions are applicable to all individuals under the age of 18, which correspondingly are considered to be children (article 2). Article 3 outlines the worst forms of child labour as "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children",¹⁹³ which in article 4 is ought to be defined by national laws and/or regulations. States are obliged to identify the various types of work where hazards exist in order to regulate and substantially eliminate the worst forms of child labour. In accordance with the Convention, ratifying States such as Bangladesh have to "establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention".¹⁹⁴

¹⁸⁹ ILO Convention No. 138 on the Minimum Age for Admission to Employment, 1973

¹⁹⁰ International Labour Organization, Accessed: 15.12.2014. "*Normlex: Ratifications for Bangladesh*". ILO, www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103500

¹⁹¹ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.14

¹⁹² ILO Convention No. 182 on the Worst Forms of Child Labour, 1999

¹⁹³ Ibid.

¹⁹⁴ Ibid.

4.3 ASSESSMENT OF THE INTERNATIONAL LEGISLATION

To sum up and conclude, Bangladesh is legally bound by several international standards as it has ratified a number of legal documents, including the ICCPR, ICESCR, CRC and Convention no.182. The conclusions that can be drawn from ratifying these documents is that they give Bangladesh a legal obligation to prohibit all forms of slavery, servitude and ensure that children do not work in the worst forms- , forced- or compulsory labour through effective measures. Bangladesh shall protect children from economic activity and social abuses as well as they shall establish legal frameworks concerning age limits in paid occupations and is obliged to punish responsible actors engaging children in child labour in accordance with their national legislation.

Similar conclusions can be identified by ILO Convention no.182 on the worst forms of child labour that Bangladesh additionally has ratified. Bangladesh is therefore bound by law to ensure that children under the age of 18 do not engage in labour that is harming their health or morals. Bangladesh has to categorize such labour and working conditions in its national legislation as well as ensure an appropriate mechanism for its implementation.

Even if Bangladesh has not yet ratified the Convention no.138 on minimum age for admission of Employment it is important to compare this document with the national legislation in order to understand the work done for progressively realizing the internationally recognized minimum ages for work, which the country still is obliged to do as stipulated in the ILO Constitution and in accordance to the CRCs principles. In the light of all these international standards one can analyze and evaluate to what extent Bangladesh has implemented these international standards within their national legislation, which follows in the section below.

All in all, in simplified terms Bangladesh is obliged to:

- Prohibit all forms of slavery, servitude and forced or compulsory labour
- Ensure measures that children do not work in forced or compulsory labour
- Take immediate actions against the worst forms of child labour
- Protect children from economic activity and social abuses
- Establish legal frameworks concerning;
 - Age limits in paid occupations,
 - Minimum age for work
 - Regulations for hazardous work including a list of hazardous work
 - Punishments for responsible actors
 - Recognizing a child as a individual under the age of 18
- Effective registration of children
- Monitor the implementation process of the ratified Conventions

5. ELIMINATING CHILD LABOUR IN BANGLADESH: ASSESSMENT OF THE INTERNATIONAL PRESSURE AND ACTIONS TAKEN

This chapter will focus on making a comparative analysis between the international law and the national legal provisions adopted by Bangladesh. Besides, focus will be on the timeline of events that has occurred in Bangladesh, what action has been taken in the international community and what measures that has been taken in Bangladesh and what the supervisory comments from international bodies are in this regard. The complexity of child labour can be found in numerous policy areas. To find a sustainable solution to eliminate child labour there have to be introduced crosscutting policies that can harmonize these primacies. Numerous measures have been started by different actors to eliminate such human right abuses, not least by the government itself but also by numerous NGOs. Cooperation's between these institutions and international organizations has established where they are working to strengthening different policy areas with the main ambition to eliminate child labour in Bangladesh, where special measures have been directed towards the garment industry. Besides, different multilateral agreements to tackle specific issues relating to child labour, and more specifically to eliminating child labour in the garment sector have been set in place. It is important to keep in mind that specific areas that are fundamental to eliminate child labour also need to be regulated by law and enforced accordingly. The creation of a more supportive national legislation with strong enforcement mechanisms are therefore fundamental in the fight to eliminate such abuses.¹⁹⁵

As pointed out, legislation is central to affecting individuals' behavior as well as changing social- and cultural norms, which are key aspects when trying to eliminate child labour. If the society understands the importance of the law they are also more likely to obey it. But, if the general public does not approve of the law, people do not

¹⁹⁵ Understanding Children's Work (UCW) Programme, 2011. "*Understanding Childrens Work in Bangladesh*". Country Report Series. UCW: Rome, pp. iv-v

see the value of following it. This also underlines the important of legal literacy and understanding. It is central that the society receives information of the importance of the law so they see a clear connection to why it is introduced and needs to be followed. In relation to this, legal enforcement is key to be able to change the societal acceptance or practice, which in this case is employing children and letting children enter the labour market under illegal conditions.¹⁹⁶

Below a time-line of events will be presented and analyzed in order to evaluate the changes in national legislation in relation to international standards.

5.1 INTERNATIONAL PRESSURE AND MEASURES TAKEN: COMPLAIANCE OF NATIONAL LAW DEVELOP IN LINE WITH INTERNATIONAL LAW

There have been significant improvements in the national legislations aiming at regulating working conditions for children and eliminating child labour in the recent years. Beneath the current national legislation and the developments of it will be discussed.

The Constitution of the People's Republic of Bangladesh, established in 1972, does not embrace an absolute prohibition of child labour. Nevertheless, it includes under article 34 a prohibition of forced labour. Nevertheless, this provision does not include all aspects of child labour.¹⁹⁷ The constitution is however complemented by Article 370 of the Bangladesh Penal Code, which includes a prohibition of slavery. The article states that “whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine”.¹⁹⁸ To complement this fundamental legislation, numerous changes have been made in the national legislation, not least since the

¹⁹⁶ Xenitidou Maria , 2014. “Complexity of Social Norms”. Springer, pp. 41-42

¹⁹⁷ The Constitution of the People's Republic of Bangladesh, 1972

¹⁹⁸ Bangladesh Penal Code, 6 October 1860 (ACT NO. XLV OF 1860)

ratification of the CRC and the Harkin Bill was proposed in the early 90's, which was a breakthrough for eliminating child labour in the garment sector.

Child labour is relatively common in Bangladesh in all sectors of work and has been so throughout history, not least in the garment industry. Revealed through research is that children in this sector are undertaking a number of hazardous tasks and are frequently working under illegal working conditions, often during very long hours causing harm to their health and morals.¹⁹⁹ The working conditions and amount of child laborers in the garment sector in Bangladesh has however drastically changed since 1992 when international pressure lead to numerous actions taken by different actors to eliminate child labour in this sector.²⁰⁰ Nevertheless, recognition and changes started before that which finally lead up to these drastic changes.

Already in 1990, 3 August, Bangladesh adopted the Convention on the Rights of the Child (CRC).²⁰¹ The legal importance of this document is that it recognizes a child as an individual under the age of 18 and that the best interest of the child shall always be taken into consideration. Moreover, it underlines that children are entitled to education, and that national law shall regulate the minimum age for employment, which is of main importance in relation to child labour. Besides this, the State shall safeguard children from hazardous work, and national law shall included penalties for violations of abuses of violations of the rights of the child.²⁰² On the basis of this Bangladesh adopted the Primary (compulsory) Education Act 1990, which legal importance is that free compulsory education shall be provided for children between the ages 6-10.²⁰³ By providing a child with the right to education is central for the elimination process of child labour as the link between child labour and education is among the strongest, as

¹⁹⁹ ICF International, 2012. *“Child Labor in the Informal Garment Production in Bangladesh”*. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.4

²⁰⁰ Ibid, pp. 12-13

²⁰¹ United Nations Human Rights, Accessed: 15.12.2014. *“Ratification of 18 International Human Rights Treaties: Bangladesh”*. OHCHR. www.indicators.ohchr.org

²⁰² Convention on the Rights of the Child adopted by the General Assembly resolution 44/25 of 20 November 1989 and entered into force 2 September 1990

²⁰³ Primary Education (Compulsory) Act, 1990 (Act No. 27)

well as it provides an alternative for working children and minimizes the risk of being engage in child labour. The Constitution of the People's Republic of Bangladesh further embraces certain provisions that empower children; especially article 17, which provides children with the right to free and compulsory public education, even though the age limit for education is not determined.²⁰⁴ Nevertheless, the compulsory age for education is regulated in the Primary (compulsory) Education Act, as also mentioned above.²⁰⁵

Two years after these events in 1992 the Harkin Bill was proposed. The USA Senate pressured exporting countries, such as Bangladesh, to eliminate child labour through trade- and trade agreements. The aim of the Bill was initially to comply with international standards such as the CRC, Convention no.182 and no.138, such as to prohibit child labour, regulating minimum ages in garment factories, register children, placing children in educational programs, but also punish individuals violating these terms and conditions.²⁰⁶

Before 1993 and the Harkin Bill, there were an estimate of 10-30.000 children under the age of 18 employed in the formal garment sector in Bangladesh,²⁰⁷ and around 50.000-70.000 in the whole garment sector, including the informal economy. The proposed Bill aimed at abolishing all import from manufacturers that had children under the age of 15 working for them. Even though this specific Bill did not pass, it had a major effect on the development in the industry, and is an event that changed the trend of child laborers in the textile industry and lead to a substantial and drastic transformation in the Bangladesh formal garment sector.²⁰⁸ This specific Bill was however rejected in

²⁰⁴ The Constitution of the People's Republic of Bangladesh, 1972

²⁰⁵ Primary Education (Compulsory) Act, 1990 (Act No. 27)

²⁰⁶ D Hindman Hugh and Quddus Munir, 2009. "*The World of Child Labor: An Historical and Regional Survey: Bangladeshi Garment Industry: From the Harkin Bill to the Bangladesh Garment Manufacturers and Exporters Association*". Routledge: United States, pp. 772-774

²⁰⁷ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

²⁰⁸ UNICEF, Accessed: 27.01.2015. "*Ideas and Actions*". UNICEF. www.unicef.org/sowc97/download/sow2of2.pdf, p.60

1993.²⁰⁹ Nevertheless, even if the Bill did not pass the Bills main principles did have effect on the country and the garment export industry. The same year, 1993, the Bangladesh Garment Manufactures & Exporters Association (BGMEA) as a response to the Harkin Bill took drastic measures. The main effects by this were that the BGMEA were calling upon all manufacturers not to hire and to discharge all children under the age of 14 from working within the formal garment sector.²¹⁰ Stunning efforts were done to eliminate child labour promptly and it certainly had very positive effects on the turnouts in the long run, nonetheless, discharging children from their work so rapidly did also have negative effects for the children. The downside of these drastic measures lead to that some children, which were living under poor circumstances and were without occupational skills and education, were eventually left without any alternatives than to engage in more hazardous work or even enter into the informal economy. This as the child and/or its family were still in the unchanged financial situation as well as other options were not given to them promptly, such as the opportunity to enter into educational institutions or programs.²¹¹ This also means that industrialized and more developed States, such as the USA, putting pressure and ban trade of products carried out by children in external, undeveloped countries, is certainly out of good will, nevertheless, without alternatives to work or go to school, children are left with little choice than to enter into even worse working conditions. Therefore, socio-economic development through a well-established social protection floor for the family, and educational alternatives are fundamental in the elimination of child labour, as a compliment to strict enforcement of regulation or legislation.²¹²

The drastic measures and the dismissal of children did come to the international community's attention and the ILO and UNICEF undertook a project of withdrawing

²⁰⁹ Mafizur Rahman Mohammad, Khanam Rasheda, and Uddin Absar Nur, 1999. "Child Labor in Bangladesh: A Critical Appraisal of Harkin's BiU and the MOU-Type Schooling Program". Journal of economic issues Vol. XXXIII No. 4, p.99

²¹⁰ UNICEF, Accessed: 27.01.2015. "Ideas and Actions". UNICEF. www.unicef.org/sowc97/download/sow2of2.pdf, p.60

²¹¹ Ibid.

²¹² Amin Shahina, M. Shakil Quayes, Rives, Janet M, 2004. "Poverty and Other Determinants of Child Labor in Bangladesh". Southern Economic Journal, Vol. 70, p. 891

children from the factories in cooperation with BGMEA and the Government.²¹³ Approximately two years after the events in 1995 the Memorandum of Understanding (MOU) program started. Its aim was to place children in schooling programs and eliminate the worst forms of child labour in the garment sector. This attempt to remove children working in factories and introduce them to the educational system resulted in very positive outcomes.²¹⁴ Beyond the MOU program there have been numerous programs aiming to eliminate child labour and introducing children to educational programs. As the immediate enforcement of a no child labour policy undertaken to respond to the proposed restriction on trade showed, children needed alternatives to the reinstatement in the labour market. To give further examples about the programs; “the Services for Children at Risk project, a total of 2,692 children (1,345 girls and 1,347 boys) received services including non-formal education, skill-development education and livelihood training”.²¹⁵ Besides, through the Basic Education for Hard to Reach Urban Working Children project, the project provided basic education to 146,942 children working under conditions viewed as child labour. For children over the age of 13, approximately 3,400 individuals got work and skill training.²¹⁶ One current program that is set into place is the Child Sensitive Social Protection project (CSPB). With the help of international organizations such as UNICEF, the CSPB has been established. The program period leaps between 2012–2016 and provides a monthly amount of finances for the maximum amount of 2,000 takas during a 18 month term to children which are unprivileged, aiming at preventing these children from working as child laborers.²¹⁷ The Harkin Bill brought very positive effects in terms of eliminating child labour promptly in the Bangladesh garment industry, where approximately 50,000 children were dismissed or eventually removed after remedial programs were put into place. Nonetheless, the consequences of these somewhat drastic measures did appear

²¹³ Mafizur Rahman Mohammad, Khanam Rasheda, and Uddin Absar Nur, 1999. “*Child Labor in Bangladesh: A Critical Appraisal of Harkin's BiU and the MOU-Type Schooling Program*”. Journal of economic issues Vol. XXXIII No. 4, p.99

²¹⁴ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

²¹⁵ International Labour Conference, 2014. “*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*”. ILO

²¹⁶ Ibid.

²¹⁷ Ibid.

fast, which also shows the downside of the measures taken so promptly.²¹⁸

To further comply with both the international pressure and its obligations Bangladesh ratified the International Covenant on Cultural Economic and Social Rights (ICESCR) in 1998.²¹⁹ The legal importance of this ratification is that ratifying states has to protect children from economic and social exploitation, legislate minimum ages for paid employment, and; legislate penalties for violations of these provisions.²²⁰ Two years after this, in 2000, Bangladesh ratified the second covenant, the International Covenant on Civil and Political Rights (ICCPR).²²¹ This covenants main legal importance in regard to child labour is that national law has to prohibit the engagement of individuals in slavery, servitude, and forced or compulsory labour.²²² By recognizing these two sets of rights is certainly strengthening the rights of the child and gives a stronger protecting against the use of child labour. This also means that Bangladesh becomes more monitored than before by the supervisory bodies of the Conventions mentioned.

In 2001 the MOU program ended after being up and running since 1995, and an evaluation of the program started.²²³ The same year, on 12 Mars, Bangladesh adopted the Worst Forms of Child Labour Convention, 1999 (No. 182).²²⁴ The legal importance of this ratification is that the Convention applies to individuals under the age of 18 and that it outlines the worst forms of child labour. In this regard it states that “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health,

²¹⁸ Mafizur Rahman Mohammad, Khanam Rasheda, and Uddin Absar Nur, 1999. “*Child Labor in Bangladesh: A Critical Appraisal of Harkin's BiU and the MOU-Type Schooling Program*”. Journal of economic issues Vol. XXXIII No. 4, p.99

²¹⁹ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

²²⁰ International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

²²¹ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

²²² International Covenant on Civil and Political Rights (1976) 999 UNTS 171. Adopted by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976

²²³ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

²²⁴ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

safety or morals of children”.²²⁵ Certainly these terms are very broad and hard to interpret. Besides, the convention underlines that national laws and/or regulations shall define the worst forms of child labour. It further recognizes that States, and in this particular case; Bangladesh, are obliged to identify the various types of work where hazards exist in order to regulate and substantially eliminate the worst forms of child labour. It further emphasizes that States have to establish appropriate instruments to monitor the legal provisions appliance.²²⁶ At this stage Bangladesh has ratified most of the international laws concerning child labour, but one of the most fundamental remains - ILO Convention no. 138. Nevertheless, in June 2001 Bangladesh’s Government additionally mentioned its intention to ratify the convention. This promise has been repeated several times. The main importance by this is that Bangladesh is striving towards introducing minimum ages for employment in its national legislation.²²⁷

Further changes and measures in Bangladesh’s national legislation started in 2004 when the government adopted the Birth and Death Registration Act (Act XXIX of 2004). This adoption has a strong connection to the obligations under the CRC, but is certainly important for recognizing all children’s rights and regulates labour conditions for children. Not least it is important to eliminate child labour. The legal importance of the Act is that it provides a legal ground for registration of children. It provides the tools for supervision of children as well as it determines the age and provides a legal foundation of when a child can, or cannot work. The Birth and Death Registration Act is a substantial document for children that are set in place to determine the age of a child, and to provide him or her with a name and nationality. The Act obligates the State to register any birth or death of a child, which is also a fundamental tool for the State to acknowledge that a child actually exists. In order to provide all children with a birth registration the State and employer can guarantee that no child under a certain age is used in child labour, its participation in school, but also other fundamental rights, such

²²⁵ ILO Convention No. 182 on the Worst Forms of Child Labour, 1999

²²⁶ Ibid.

²²⁷ International Labour Organization, accessed: 23.05.2015. “*Bangladesh - Country baselines under the ILO Declaration Annual Review (2000-2008): Effective abolition of child labour (CL)*”. ILO , www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_CL_BGD/lang--en/index.htm

as access to health care services.²²⁸ The effects of the relatively new regulation have proven to deliver positive results. The number of children registered in 2009 was 54%, which is a significant increase since 2004 when only 10% of the total amount of children in Bangladesh was registered.²²⁹ This significant achievement is followed by the State adopting new legislation on Minimum age for work and Minimum age for hazardous work including a list of hazardous works, which will be discussed below. Nonetheless, the work to register all children is crucial for obtaining a full picture of the situation and to follow the development of children and their engagement in educational institutions as well as in economic activity and child labour.

Two years later in 2006, the Labour Act (Act XLII of 2006) was adopted, which main legal importance is that it replaced a total of 25 old and outdated labour laws and introduced a new basic minimum age for work. It defines minimum ages for work, but does not include the specific working conditions that are prohibited.²³⁰ The Labour Act is one of the most significant milestones for prohibiting child labour in the national legislation.²³¹ This relatively new legislation defines the basic minimum age of a child at the age of 14, which also becomes the new basic minimum age for work. This has not been recognized before, where different legal terms for a child have been used in different documents within the national legislation. The Act further prohibits children under certain ages to work in specific settlements. Children over the age of 12 can perform so-called light work, as well as children under the age of 18 are prohibited to work in hazardous work. Exceptions can be made from the age of 16 in accordance with law.²³² This is in line with the CRC and the ILO's minimum ages at work and also lives up to the obligation to legislate minimum ages for work. Nevertheless, these age-limits are set in relation to developing states' criteria.²³³ The Labour Act furthermore includes

²²⁸ Birth and Death Registration Act 2004 (Act XXIX of 2004), AND: ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp.14.-15

²²⁹ UNICEF, 2010. "*Report: Child Labour in Bangladesh*". UNICEF: Bangladesh, p.7

²³⁰ Aktar, S, & Abdullah, AM, 2013. "*Protecting Child Labour in Bangladesh: Domestic Laws versus International Instruments*", Bangladesh e-Journal of Sociology, vol. 10, no. 1, p.164

²³¹ The Labour Act 2006 (Act XLII of 2006)

²³² Ibid.

²³³ ILO Convention No. 138 on the Minimum Age for Admission to Employment, 1973

an age table for engaging in different occupations, but does not include the specific working conditions that are prohibited, which has led to several controversial discussions.²³⁴ Nonetheless, the National Child labour elimination policy introduced in 2010, and the 2013 Children Act that will be discussed in the two following paragraphs complement this.

The following year, in 2007, issues of compliance with labour standards were taking a major leap. The high level Social Compliance Forum was set up by the Ministry of Commerce for monitoring and ensure, among other things, the compliance of labour laws in the garment industry.²³⁵

The work of the Social Compliance Forum has continued until today and one of the contributions of its work is that in 2010 Bangladesh adopted the National Child labour elimination policy, which legal importance is that it included a minimum age table.²³⁶ The National Child labour elimination policy is a significant instrument eliminating child labour in many aspects. It is important to note that there is yet no national legal definition of the specific term child labour in any of the national laws, but the 2010 policy recognizes the term children engaged in work. The 2006 Labour Act does, as discussed above, include an age table for work engagement in different occupations, but does not include the specific term, which have led to several controversial discussions. “The policy advocates a friendly world for the children engaged in work and provides a standard framework concerning education, health, working environment, specific working conditions, recreation, treatment, and security, social awareness building for managing and reducing risks of child abuse by employers”.²³⁷ This policy underlines

²³⁴ Aktar, S, & Abdullah, AM, 2013. “*Protecting Child Labour in Bangladesh: Domestic Laws versus International Instruments*”, Bangladesh e-Journal of Sociology, vol. 10, no. 1, p.164

²³⁵ International Labour Organization, accessed: 23.05.2015. “*Bangladesh - Country baselines under the ILO Declaration Annual Review (2000-2008): Effective abolition of child labour (CL)*”. ILO , www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_CL_BGD/lang--en/index.htm

²³⁶ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.14

²³⁷ Aktar, S, & Abdullah, AM, 2013. “*Protecting Child Labour in Bangladesh: Domestic Laws versus International Instruments*”, Bangladesh e-Journal of Sociology, vol. 10, no. 1, p.164

several international obligations in regard to the CRC and the ILOs two Conventions; Nos. 182 and no. 138.

Approximately three years later came another milestone in the country's legislation against child labour, namely the Children's Act 2013.²³⁸ The Children Act 1974 (Act XXXIX of 1974) was the previous fundamental legal document instituting children's rights in the country.²³⁹ Nevertheless, Bangladesh has done several modifications in its national legislation in order to combat child labour, especially the worst forms of it, and to harmonize its national legislation toward international standards. For example, by adopting the Children's Act in 2013 in order to start complying with its obligations under the CRC. The Act gave recognition to the international legal definition of a child as an individual under the age of 18, which Bangladesh previously defined were at the age of 14.²⁴⁰ The Act in relation to Article 141 defines child labour as "work by a child which: (a) is exploitative, hazardous or otherwise inappropriate for a person of that age; and (b) places at risk the child's well-being, education, physical or mental health, or spiritual, moral, emotional or social development".²⁴¹ This Act ensures, in legal terms that Bangladesh complies with most of its international obligations. Besides these important legal improvements, the same year the list of hazardous work was adopted which certainly is a step forward with complying with international standards. This list is including a total of 38 occupations deemed hazardous for children in different ages.²⁴² This list was negotiated already in 2011 through a tripartite consultative committee.²⁴³ It certainly is a significant step for eliminating child labour as the directive applies towards

²³⁸ International Labour Organization, Accessed: 28.01.2015. "*Elimination of child labour, protection of children and young persons*". NATLEX. www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=BGD&p_classification=04&p_origin=SUBJECT

²³⁹ The Children Act 1974 (Act XXXIX of 1974)

²⁴⁰ International Labour Organization, Accessed: 28.01.2015. "*Elimination of child labour, protection of children and young persons*". NATLEX. www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=BGD&p_classification=04&p_origin=SUBJECT

²⁴¹ The Children's Act 2013, (Act No. 24 of 2013), AND; International Labour Conference, 2014. "*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*". ILO

²⁴² International Labour Conference, 2014. "*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*". ILO

²⁴³ Zaman Shituma, Matin Sabrina, Kibria Gholam Bin Mahmud Ashiq, 2014. "A Study on Present Scenario of Child Labour in Bangladesh. OSR Journal of Business and Management. Volume 16, Issue 6. Ver. III, pp. 25-36

working in both the informal and formal sector. At the ILO Conference the Committee on the Application of International Labour Standards, gave comments and recommendation on the progress Bangladesh has made in tackling and eliminating child labour by adopting these standards. Out of these 38 types of works which children in the garment sector can be exposed to, the following were included: handling chemicals, pesticides leather, dyeing, bleaching or weaving.²⁴⁴ This enables Bangladesh to comply with its obligations under the CRC and ILO Convention No.182. The ILO supervisory body has at the International Labour Conference (ILC) for a long time recommended Bangladesh to adopt this list of hazardous work prohibited for children, in order to comply with its international obligations. When Bangladesh finally adopted this is list in 2013 it was of great satisfaction for the ILO.²⁴⁵

Now with the necessary legal structure in place, the international pressure is aimed at promoting their implementation. The UN Committee on the rights of the child “is also concerned 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”. The Committee has made recommendation to Bangladesh to address these issues at the national level.²⁴⁶ The Committee has additionally recommended Bangladesh to make changes to its monitoring system, by “increasing the number of labour inspectors and develop a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations and ILO/IPEC”.²⁴⁷ ILO has also pressured Bangladesh to ratify Convention No.138, which the Country in 2001 confirmed that they would be aiming at. This promise has, as mentioned, been reassured a number of times.²⁴⁸

²⁴⁴ International Labour Conference, 2014. “*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*”. ILO

²⁴⁵ Ibid.

²⁴⁶ UN Committee on the Rights of the Child (CRC), accessed 17.05.2015. “*Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Bangladesh, 26 June*” 2009, CRC/C/BGD/CO/4, www.refworld.org/docid/4a8e977d0.html

²⁴⁷ Understanding Children’s Work (UCW) Programme, 2011. “*Understanding Childrens Work in Bangladesh*”. Country Report Series. UCW: Rome, p.49

²⁴⁸ International Labour Organization, accessed: 23.05.2015. “Bangladesh - Country baselines under the ILO

ILO has also assisted Bangladesh with technical assistance to tackle the issue of child labour in the garment industry, as well as establishing “the Bangladesh Bureau of Statistics conducted a National Child Labor Survey by including a child labor module in the National Labor Force Survey”.²⁴⁹ This effort will not doubt provide essential information on the extent of child labour beyond the garment sector, where at present there is little statistical data in this field.²⁵⁰

5.1.1 ENFORCEMENT MECHANISMS

As previously mentioned, there have been measures taken in regard to the enforcement of labour laws in the export garment industry. This started back in 2007 with the high level Social Compliance Forum set up by the Ministry of Commerce for the garment industry to ensure, among other things, compliance with labour standards.²⁵¹ Nonetheless, it is reported that the enforcement of child labour legislation is effective in the export oriented garment sector, but indicates that beyond that sector the enforcement of the law remains a big challenge.²⁵²

Other obstacles are the monitoring process. The monitoring mechanisms for child labour are controversial in Bangladesh, where no authority is the main responsible institution. The Ministry of Women and Children Affairs is the main authority regulating child issues, while on the other hand the Ministry of Labour and Employment are in charge of

Declaration Annual Review (2000-2008): Effective abolition of child labour (CL)”. ILO , www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_CL_BGD/lang--en/index.htm

²⁴⁹ United States department of Labour, 2013. “*Bangladesh 2013 Findings on the Worst Forms of Child Labor*”. Bureau of International Labor Affairs: USA, p.1

²⁵⁰ UN Committee on the Rights of the Child (CRC), accessed 17.05.2015. “*Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Bangladesh, 26 June*” 2009, CRC/C/BGD/CO/4, www.refworld.org/docid/4a8e977d0.html

²⁵¹ International Labour Organization, accessed: 23.05.2015. “*Bangladesh - Country baselines under the ILO Declaration Annual Review (2000-2008): Effective abolition of child labour (CL)*”. ILO , www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_CL_BGD/lang--en/index.htm

²⁵² Understanding Children’s Work (UCW) Programme, 2011. “*Understanding Childrens Work in Bangladesh*”. Country Report Series. UCW: Rome, pp.21 -23

labour related manners. The latter institution is proposed by the National Child labour elimination policy from 2010 to become the main institution monitoring child labour.²⁵³

As mentioned before, the CRC Committee has stated that there is a need to improve data collection to get a full view of the child labour situation in the country. Not least in order to fully grasp what measures still need to be taken to eliminate child labour in all its forms. It is concerned about the enforcement mechanism, and are pinpointing the lacking of “coordination and collaboration among government agencies in data collection and the inadequate technical capabilities for data collection, analysis, and reporting”,²⁵⁴ which are significant in order to obtain a sufficient enforcement of the legislation.²⁵⁵ The ILO has communicated that the enforcement procedure is on the right track, but one of the major concerns is that penalties shall be imposed in practice, to be able to effectively enforce the legislation.²⁵⁶

Trade unions and Labour inspections in the garment industry are key for maintaining and establishing good and healthy working conditions, and eliminating child labour. Bangladesh has in the last years had a steady growth of trade unions engaging in the sector. From year 2012, after major accidents occurred causing 1000 of deaths, the number of trade unions has steadily grown. From this period 132 trade unions were registered, while in March 2015 the number reached 347. In addition to these significant improvements, labour inspections have been carried out. The number of inspections has drastically increased and in 2015, a total of 2.500 inspections were carried out by both national and other organizations initiative. However, there are still 1000 inspections left to fully cover all factories in the country. Nonetheless, these inspections are not only aiming at reducing child labour, but to increase the safety- and health related issues at

²⁵³ Aktar, S, & Abdullah, AM, 2013. “*Protecting Child Labour in Bangladesh: Domestic Laws versus International Instruments*”, Bangladesh e-Journal of Sociology, vol. 10, no. 1, p.164

²⁵⁴ UN Committee on the Rights of the Child (CRC), accessed 17.05.2015. “*Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Bangladesh, 26 June*” 2009, CRC/C/BGD/CO/4, www.refworld.org/docid/4a8e977d0.html

²⁵⁵ Ibid.

²⁵⁶ International Labour Conference, 2014. “*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*”. ILO

the different work units. As the number of inspections increases, the government funding for these activities has largely increased, which also shows the government's will to improve the work place situation in the garment industry. Between 2013-2014 only US\$ 900,000 were earmarked for labour inspections. This sum increased to US\$ 3 million the following year. The total amount reserved for the time-period 2015-2016 is set to US\$ 9 million. This certainly is a significant investment in realizing workers rights in the garments sector.²⁵⁷

Currently there are also international co-operations dealing with this issue of enforcement of labour laws in the country. To enforce labour laws, especially for eliminating child labour, the so-called 'Better Work project' has been established. This is a cooperation between the ILO and the International Finance Cooperation (IFC) and is currently set up in Bangladesh to help implement labour law in the garment factories in accordance with international labour standards, including those on child labour.²⁵⁸

Certainly, the adoption and enforcement of the new legislation is not an easy task. The Bangladesh government focuses intensely on the capacity of labour inspectors after the adoption of the Child Labour Act, which further increased after the numerous accidents that caught the world's attention. This to enforce legislation and intensify the protection for children trapped in child labour. Nevertheless, the system is lacking and especially child laborers performing their work in sub-contracting household units still lack sufficient protection.²⁵⁹

Certainly, Bangladesh is on the right track to tackle child labour in the garment industry, and given the pressure by the international community and organizations this is likely to continue to improve. However it is unclear whether these significant improvements have had any impact beyond the formal sector - in the informal garment industry, but also beyond this industry. With the strengthening of the expectations and demands on

²⁵⁷ International Labour Organization, 2015. Rana plaza: *Two years on: Progress made & challenges ahead for the Bangladesh RMG sector*". International Labour Office: Geneva, pp.9-13

²⁵⁸ Better work, Accessed 16.05.2015. "Better work; Bangladesh". ILO/IFC www.betterwork.org/global/?page_id=5581

²⁵⁹ United States Department for Labour, Accessed: 27.01.2015. "*Bangladesh: 2013 Instance End Editable Findings on the Worst Forms of Child Labor*". www.dol.gov/ilab/reports/child-labor/bangladesh.htm

corporate social responsibility for companies to be accountable for working conditions and human rights violations throughout their supply chain that the limits in the formal sector in the actions to eliminate child labour will have to be expanded to the informal economy. So the success of the formal sector legislation and action will somehow need to be expanded to the wider industry activities in the informal economy. Nevertheless, this is a major challenge and what we can see by the turnouts of the suggested Harkin Bill is that such rapid changes do not only bring positive outcomes for working children.

5.2 EVALUATION OF EVENTS AND MEASURES

As discussed in the previous chapters is the time-line of events that has had an impact on the national legislations development in relation to compliance with international standards, with the aim to eliminate child labour, especially in the garment industry. By prohibiting child labour in national legislation the State itself becomes responsible for the children's protection in this regard. National law provides the foundation for "principles, objectives and priorities for national policy. It creates specific legal rights and responsibilities and sets up the procedures for acting on complaints and making investigations".²⁶⁰ The following is a brief analysis of what the main impact has been.

Pressure from international organizations, NGOs and governments has affected the Country's efforts of eliminating child labour and to more effectively introduce educational programs, adopt industry regulations, adopt a series of legislation, strengthen enforcement of legislation and monitor the achievements to comply with international standards. Bangladesh has made efforts to comply with these requirements.

The governmental pressure on trade to eliminate child labour in the sector more or less has started by the USA and was underpinned by the BGMEA, calling upon all manufacturers to dismiss all children under the age of 15 in their factories. The prompt actions taken affected children negatively where they did not have any alternative that to work, which was noticed by several organizations. Following this MAO was established,

²⁶⁰ International Labour Office, 2004. "*Child Labour: A textbook for university students*". International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.203

which provided a transition for children from the garment industry to educational programs.²⁶¹ During the time-span 1995 to 2001 an evaluation of the MAO program showed that 30 percent of all the children in the sector actually started to participate in educational projects.²⁶² Nonetheless, studies has further shown that the implementation of all educational programs are limited to the available financial resources, which also affects the capacity of the specific action taken. Besides that, there is little or even in some cases non-existing coordination among these different programs and actors, which additionally minimizes the full effect the programs could have.²⁶³

There is now national legislation recognizing a child under the age of 18, it is including registration of children, which is key for recognizing or monitoring any of the children's rights. There is legislation covering minimum age for work (covering paid occupations) as well as minimum age for hazardous work including a list of hazardous work. Not least, it includes legal grounds for punishment for responsible actors. Besides, there is set up a committee to monitor the implementation and compliance of international labour standards. That national law develops in compliance with international standards is certainly a positive statement showing the government's will to create a change in the labour market to respect the workers, and more specifically, the children's fundamental rights. As mentioned above, the success needs to be expanded to the wider industry activities in the informal economy. By strengthening both the expectations and demands on CSR for companies to be accountable for working conditions and human rights violations throughout their supply chain will give rise to a more sustainable and child labour free sector as a whole. Nevertheless, this is a major challenge.

Certainly Bangladesh has come a long way in only a few years when recognizing these important rights, not least since the adoption in 2006 of the Labour act, which replaced older and outdated legislation. Nonetheless, the new legislation is not comprehensive

²⁶¹ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

²⁶² Ibid.

²⁶³ Understanding Children's Work (UCW) Programme, 2011. "*Understanding Childrens Work in Bangladesh*". Country Report Series. UCW: Rome, pp. iv-v

enough, as it excludes the informal sector. The national legislation in Bangladesh targets the formal and semi-formal sector, which leads to that the informal sector does not have any legal regulation or protection, leaving out numerous of children. This creates a major gap in the legislation in terms of protecting the rights of the child. It means that about 80% of all child laborers in the country are not protected by law, as they are being employed in family businesses or other small informal units.²⁶⁴ This implies that further measures need to be taken regarding the elimination of child labour in the informal sector, including home-based units. Besides, it is important to remember that many of the permanent companies and semi-formal businesses that even have trade licenses do not follow the legislation on labour laws.²⁶⁵

Other gaps that can be detected in the national legislation are that even though the introduction of the birth and death registration act is a great achievement, there are still numerous children that do not have a legal status. More effective measures for enforcement of the legislation and actions for registration of children is required to tackle the issue of child labour in a comprehensive way, as well as for the society to know when an individual is working under legal conditions or not.²⁶⁶

Conclusions that can be drawn from this age-limit in compulsory education is that many children, after the age of 10, are not obliged to compulsory schooling nor can they legally start working in accordance with the national minimum age for employment, which for light work is at minimum 12 while for basic work it is at 14 years.²⁶⁷ This means that children have at least 2 years before they can legally start with light work, and a total of 4 years until they can be employed as a worker. Besides this, the education is not totally free, where children and their families have to pay for educational materials. This certainly impacts the possibilities for children living in poverty to be

²⁶⁴ Understanding Children's Work (UCW) Programme, 2011. "*Understanding Childrens Work in Bangladesh*". Country Report Series. UCW: Rome, pp. iv-v

²⁶⁵ ICF International, 2012. "*Child Labor in the Informal Garment Production in Bangladesh*". Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 1-4

²⁶⁶ Understanding Children's Work (UCW) Programme, 2011. "*Understanding Childrens Work in Bangladesh*". Country Report Series. UCW: Rome, pp. iv-v

²⁶⁷ The Labour Act 2006 (Act XLII of 2006)

enrolled in schools.²⁶⁸

That child labour disappears or is eliminated when national laws are in place is not for certain. States that have established legislation prohibiting child labour still have problems with such practices. In general rising legal awareness is key for the recognition and practice of the legislation. Certainly, the effect of national legislation depends on various aspects and often the enforcement of laws is difficult to comprehend. The enforcement procedure is to a major extent dependent on “both human and material resources as well as political will”.²⁶⁹

The effect of the legislation further depends on the legal awareness and acceptance by the society. If the legislation is not accepted or trusted in terms of justification, the general public is more likely to ignore it. This also depends on the penalties for violating the provisions. If there for example strict and hard punishment for employing children under terms considered as child labour is in place, the gain of doing so would reduce as the risk is to high.²⁷⁰

It is however important to highlight the significant improvements that have been done in the Bangladesh garment industry, not least in the formal sector. From being a major employer of child laborers the sector now has almost become a child labour free sector, which is spectacular in the Bangladesh society. The achievements of eliminating child labour have however mostly targeted the formal sector.²⁷¹

The ILO supervisory body did in their review of applications of standards at the ILC in 2014 note that Bangladesh is making a lot of efforts to combat child labour and

²⁶⁸ Zaman Shituma, Matin Sabrina, Kibria Gholam Bin Mahmud Ashiq, 2014. “A Study on Present Scenario of Child Labour in Bangladesh. OSR Journal of Business and Management. Volume 16, Issue 6. Ver. III, pp. 25-36

²⁶⁹ International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.203

²⁷⁰ Xenitidou Maria, 2014. “Complexity of Social Norms”. Springer, pp. 41-42

²⁷¹ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p. 4

introduced sufficient legislation in line with international standards, such as the adoption of the list of hazardous work prohibited to children.²⁷² Similarly, the UN Committee on the rights of the child has additionally communicated its appreciation of the government's effort in eliminating child labour in the garment sector in the country.²⁷³

This research has shown that there have been effects following both international pressure and measures taken at the national level in reducing the numbers of child labour, but also introducing stricter legislation for prohibiting child labour. In line with developing the national legislation to follow international standards, and to progressively eliminate child labour, the government has reported that several of the programs established for this cause are well functioning. International law development seems to have had an impact on this visibility of child labour in Bangladesh. Besides, programs targeting the garment sector for reducing and eliminating child labour, as well as enforcing law have been established and carried out with good effects and results. These programs have also encouraged the establishment of modern national labor laws and effective measures in relation to for example education, to progressively eliminate child labour in a sustainable way. In cooperation with the measures taken new legislation has been established, which additionally reflects the labour market. Nevertheless, the legislation is relatively new and the long-term effect of it cannot be seen yet.

Industrialized western countries have shown that stricter laws prohibiting child labour in a combination with ensuring primary education are necessary to combat child labour, as well as ensuring that the level of child labour would not rise again. National laws help to change the morals and values of families and employers using children for labour. Nevertheless, it is important to notice that national laws alone will not abolish child

²⁷² International Labour Conference, 2014. "*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*". ILO

²⁷³ UN Committee on the Rights of the Child (CRC), accessed 17.05.2015. "*Consideration of reports submitted by States parties under article 44 of the Convention : Convention on the Rights of the Child : concluding observations : Bangladesh, 26 June*" 2009, CRC/C/BGD/CO/4, www.refworld.org/docid/4a8e977d0.html

labour on the national level.²⁷⁴ For example unawareness of families, children and employers in regards to labour standards and laws is usual. Families in need of more financial income from its children do not complain about the working conditions, as well as that certain labour conditions are dangerous to children is often not well known among parents or employers.²⁷⁵ Undoubtedly, it is a further challenge to change social norms or the socio-economic situation for families so they reject the requirement and do not have the financial need of letting their children work under conditions perceived as child labour.²⁷⁶

The challenge that remains is to keep the formal garment sector child labour free, which requires an active government working for this cause. National legislation has to extend to the informal- and other sectors such as agriculture, to fully eliminate all child laborers in the sector.

²⁷⁴ UNICEF, Accessed: 27.01.2015. “*Ideas and Actions*”. UNICEF, www.unicef.org/sowc97/download/sow2of2.pdf, pp.58-59

²⁷⁵ International Labour Office, 2004. “*Child Labour: A textbook for university students*”. International Programme on the Elimination of Child Labour, International Labour Office: Geneva, p.203

²⁷⁶ Mafizur Rahman Mohammad, Khanam Rasheda, and Uddin Absar Nur, 1999. “*Child Labor in Bangladesh: A Critical Appraisal of Harkin's BiU and the MOU-Type Schooling Program*”. Journal of economic issues Vol. XXXIII No. 4

6. CONCLUSIONS AND FURTHER REMARKS

6.1 CONCLUSIONS

The challenging problems of child labour are a common concern for the global community. In Bangladesh there are widespread problems of child labour that can be traced throughout the whole country, in all sectors on the labour market. Especially in the informal sector where national law does not regulate who is working, nor the working conditions at the worksite. Employing children is very beneficial for the employer as it is cheaper, as well as it is both hard to detect and regulate by the competent authority. In the country's formal garment industry stunning efforts have been done, resulting in a child labour free formal industry.

This thesis seeks to answer two main research questions, firstly, if international obligations and pressure had any impact on the amount of child labour as well as on national legislation on child labour in the garment sector in Bangladesh, and secondly, if national legislation to eliminate child labour in the garment sector is in line with international standards and adequate enough to eliminate or substantially reduce child labour. To answer these two questions, this thesis has been guiding us through a wide range of information contributing to a broader picture of child labour, and more specifically child labour in the garment sector in Bangladesh.

By focusing on the first research question, this thesis has shown that the reduction of child labour in the export garment industry is certainly a significant achievement for the country. Data shows that child labour has been reduced after the measures taken by different actors and events that started with the adoption of the CRC, and were followed by the proposed Harkin Bill in the early 90's. These events had a major impact on the forthcoming adoptions of new legislation, as well as they had a great impact on the amount of child laborers in the whole industry. Not least in the formal sector which today is declared to be free from child labour. Nevertheless, the local supply chain is still hard to fully overview and regulate.

That international obligations and pressure have had a positive impact on the development of national legislation on child labour in the garment sector in Bangladesh as well as on the reduction of child labour in the export garment industry. The events that followed made Bangladesh modernize its national legislation, and even if it has been during a long time-period, Bangladesh today has a legislation at the national level which is in compliance with international standards. The international obligations, which Bangladesh is bound by, have had very positive effects in recent years when Bangladesh started to fulfill its obligations, not least under the CRC, which Bangladesh ratified 25 years ago, in 1990. The measures that were taken eventually lead to further ratifications of international standards, such as the ICCPR, the ICESCR and the ILO Convention no.182. These documents create the international legal obligations, which Bangladesh has agreed to be bound by.

In 2004 the legislative work really started at the national level with the adoption of the Birth and Death Registration Act to eliminate child labour. This Act provides the fundamental base for regulating child labour, by aiming at registering all children in the country. This provides children with legal age, which later is useful for the government as well as employers to determine if children are allowed to work in a specific sector. It on the other hand provides information if a child should be enrolled in schooling. This Act makes it possible to map children and to acknowledge their enrolment in work or education. The Act has shown very positive results, where over half of all the children in the country now are registered. The amount of registered children was only 10 percent before the Act has been adopted. The major changes in regulating and prohibiting child labour started two years later in 2006 when Bangladesh adopted the new Labour Act. Other significant improvements were the adoption of the National Child labour elimination policy introduced in 2010, and the Children Act that has been adopted only 2 years ago, in 2013.

The second question analyzes if the measures taken in regard to national legislation to eliminate child labour in the garment sector are in line with international standards and if it is adequate enough to eliminated or substantially reduce child labour. By firstly

focusing on how national laws comply with international standards, the outlook is very positive. Today there is adequate legislation in place for regulating child labour, forced labour and hazardous work. The relatively new adopted legislation includes a minimum age for work and hazardous work including a list of 38 hazardous works prohibited for children under 18 (16 occasionally), which is in line with the international obligations the Country is bound by. It is also important to note that even if Bangladesh has not yet adopted the ILO Convention No.138, it has come to follow the same internationally recognized standards for minimum ages for employment that is acceptable for undeveloped States, which however makes them comply with their obligations under the CRC.

In conclusion, national legislation is following the international recognized standards of international labour law relating to child labour. Nevertheless, the effectiveness of them can be questioned, even if some of them have shown very positive results. The law in the books and in practice is often different, and Bangladesh is no exception. Still the country has a high amount of child labour, especially in the informal garment sector. There are various parts of the implementation of the legislation that is still lacking. The enforcement procedures are still not sufficient enough, even though the government focuses intensely on the capacity of labour inspectors, since the adoption of the Child Labour Act. The sustainability aspect in the formal sector must also be considered by the government to maintain the good starting point of a child labour free garment export industry. Nonetheless, the government has to be careful, as other work tasks could be added to the list of hazardous work resulting in a rise of minimum age for certain works to 18. It has to actively work with preparing for such changes, so that the sector remains child labour free in a sustainable way. There is however no information available on the impact of a possible change of the regulation yet. This will be a challenge for the government to tackle when it will develop, and anticipates the need for sufficient tools for monitoring these changes. Other specific priorities that Bangladesh has to consider except of legislation are to promote a totally free primary education and specific educational programs for children in older ages which have fall out of the educational system or do not yet have entered. Besides, a social protection floor has to be well

established to tackle the socio-economic aspect that forces some children to enter the labour market to support him or herself, or the family.

National law can set standards and change the social norms through enforcing the practice of prohibiting child labour. Nevertheless, the legal literacy of the laws is not satisfactory. There is unawareness of the laws among families, children and employers, which indicates that the legislation through its enforcement process has not yet formed the social and cultural norms in Bangladesh. Nonetheless, as it has been illustrated in this thesis, national legislation is not the only key to eliminate child labour. Many factors play a role and the root causes have to be considered to fully eliminate the issue. The complexity of child labour will not be solved through legislation alone, but it can be used as an enforcement tool. Socio-economic development is required to fully dissolve the root-causes of child labour. But as mentioned, law is a tool for changing social norms within the society, where the society in Bangladesh often sees child labour as something positive and useful.

If the elimination of child labour is successful in Bangladesh's garment industry can be viewed differently. Nevertheless, the data provided showed a decline in the number of child laborers working in the sector, where child labour in the formal sector is almost eliminated as well as the numbers are decreasing in the informal sector.

Bangladesh is an important Country to have an eye on, but it can yet not be used as a model for eliminating child labour for other States. In fact, Bangladesh has only succeeded to reduce child labour in the garment industry, but other sectors are still reporting alarming numbers of child labour. The differences within the informal and formal sector are also enormous. Labour inspectors do not have the capacity to monitor or regulate worksites, nor detect child laborers in the informal sector, which would be needed to eliminate child labour fully.

There is a good chance for Bangladesh to succeed with its mission to eliminate child labour, especially in the whole garment sector, including the informal sector, where

drastic improvements already have been carried out with relatively good results. Nonetheless, it is too early to call it a true success story, due to the fact that child labour in the Bangladesh garment industry is yet wide spread and more efforts and measures have to be taken in this area. Nevertheless, the country is on the right path. Child labour can certainly be eliminated in Bangladesh through the measures taken, but there are still obstacles that need to be tackled before the mission can be fully accomplished. To get full success there has to be a transition of the legislation to cover the informal sector, such as household production as well, which today still have numerous child laborers. Nonetheless, the practices and events contributing to the progress of eliminating child labour in the garment industry can be used as good examples in States that are in similar situations, or in other sectors where children are working. It is important to keep in mind that this kind of progress does not happen promptly, but takes a lot of time and resources. Time will eventually tell.

6.2 RECOMMENDATIONS

Essential for this discussion is that trade is not the root cause of child labour, even if it has come to underpin its existence. As poverty is one of the main causes of child labour, measures to increase socio-economic standards among the inhabitants and families are key. National law prohibiting the practice is therefore not the single instrument to eliminate child labour, but one of the fundamental instruments for achieving it.

To further strengthening the legal protection for children Bangladesh has to:

- Expand the national legislation towards the informal sector, where sub-contractors shall be covered by the same legislation.
- Adopt ILO Convention No.138. This should be of highest priority when the government already adopted sufficient legislation for minimum ages in line with the convention.
- Ensure that national laws are effectively enforced through increasing labour inspections.
- Ensure justice for children which human rights have been violated through engagement in child labour through punishments in accordance with national law.
- Establish programs for socio-economic development, including schooling and educational programs so children can easily access
- Ensure that all children can access educational institutions through making the schools totally cost-free.

ANNEX 1: TIMELINE OF EVENTS IN BANGLADESH

1990 - Adoption of the Convention on the Rights of the Child (CRC).²⁷⁷

1990 - Adoption of the Primary (compulsory) Education Act.²⁷⁸

1992 - The Harkin Bill was proposed.²⁷⁹

1993 - The Harkin Bill was rejected.²⁸⁰

1993 - Measures by the Bangladesh Garment Manufacturers & Exporters Association (BGMEA) as a response to the Harkin Bill.²⁸¹

1995 - Memorandum of Understanding (MOU) program started.²⁸²

1998 - Bangladesh ratified the International Covenant on Cultural Economic and Social Rights (ICESCR).²⁸³

2000 - Bangladesh ratified the International Covenant on Civil and Political Rights (ICCPR).²⁸⁴

2001 - The MOU program ended. Evaluation of the program started.²⁸⁵

2001 - Adopted the Worst Forms of Child Labour Convention, 1999 (No. 182).²⁸⁶

²⁷⁷ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

²⁷⁸ Primary Education (Compulsory) Act, 1990 (Act No. 27)

²⁷⁹ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

²⁸⁰ Ibid.

²⁸¹ UNICEF, Accessed: 27.01.2015. “*Ideas and Actions*”. UNICEF. www.unicef.org/sowc97/download/sow2of2.pdf, p.60

²⁸² ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

²⁸³ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

²⁸⁴ Ibid.

²⁸⁵ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp. 12-13

²⁸⁶ United Nations Human Rights, Accessed: 15.12.2014. “*Ratification of 18 International Human Rights Treaties: Bangladesh*”. OHCHR. www.indicators.ohchr.org

2001- Bangladesh’s Government mentioned its intention to ratify Convention no.138. This has been repeated several times.²⁸⁷

2004 - Adoption of the Birth and Death Registration Act 2004 (Act XXIX of 2004).²⁸⁸

2006 - Adoption of the Labour Act 2006 (Act XLII of 2006).²⁸⁹

2007 - The high level Social Compliance Forum.²⁹⁰

2010 - Adoption of the National Child labour elimination policy.²⁹¹

2013 - Adoption of the Children Act.²⁹²

2013 - Adoption of the list of hazardous work.²⁹³

²⁸⁷ International Labour Organization, accessed: 23.05.2015. “*Bangladesh - Country baselines under the ILO Declaration Annual Review (2000-2008): Effective abolition of child labour (CL)*”. ILO , www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_CL_BGD/lang--en/index.htm

²⁸⁸ Birth and Death Registration Act 2004 (Act XXIX of 2004), AND: ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, pp.14.-15

²⁸⁹ Aktar, S, & Abdullah, AM, 2013. “*Protecting Child Labour in Bangladesh: Domestic Laws versus International Instruments*”, Bangladesh e-Journal of Sociology, vol. 10, no. 1, p.164

²⁹⁰ International Labour Organization, accessed: 23.05.2015. “*Bangladesh - Country baselines under the ILO Declaration Annual Review (2000-2008): Effective abolition of child labour (CL)*”. ILO , www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_CL_BGD/lang--en/index.htm

²⁹¹ ICF International, 2012. “*Child Labor in the Informal Garment Production in Bangladesh*”. Task Order II, Task VI: In-Country Mixed-Methods Research and Data Collection, Submitted to: United States Department of Labor, p.14

²⁹² The Children's Act 2013, (Act No. 24 of 2013), AND; International Labour Conference, 2014. “*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*”. ILO

²⁹³ International Labour Conference, 2014. “*Observation (CEACR) - adopted 2014, published 104th ILC session (2015)*”. ILO

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