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POVERTY IN THE CENTER OF THE CONVERSATION ABOUT CHILD LABOR IN BANGLADESH

By Zannatul Mustafa

I. INTRODUCTION

On March 24, 2013, an eight-story building known as the Rana Plaza collapsed in Dhaka, Bangladesh.¹ The incident was one of the deadliest in the garment industry, killing more than 1,100 people and injuring over 2,500 others.² Five garment factories that manufactured goods for major retail companies, such as The Children's Place, Mango, and Walmart were housed there.³ Most of those found dead or injured from the collapse were women and children.⁴

One of the children who survived the collapse was Aanna Khathun.⁵ The thirteen-year-old's hand was trapped under a heavy machine when the collapse happened.⁶ She was in a dark tunnel of fragmented concrete and surrounding her were the dead bodies of her co-workers.⁷ A machine operator from one of the neighboring garment factories rescued Aanna by cutting off her hand to free her from the weight of the machine.⁸ At the time, the man did not know that Aanna was only a child.⁹

¹ Ashley Westerman, *4 Years after Rana Plaza Tragedy, What's Changed for Bangladeshi Garment Workers?*, N.P.R., Apr. 30, 2017, <https://www.npr.org/sections/parallels/2017/04/30/525858799/4-years-after-rana-plaza-tragedy-whats-changed-for-bangladeshi-garment-workers>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Dean Nelson, *Bangladesh's Rana Plaza Tragedy Lives on for the Child Workers Who Survived*, THE TELEGRAPH, Apr. 24, 2014, <https://www.telegraph.co.uk/news/worldnews/asia/bangladesh/10783733/Bangladeshs-Rana-Plaza-tragedy-lives-on-for-the-child-workers-who-survived.html>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

Amongst the others who survived the collapse were her fourteen-year-old sister and another thirteen-year-old girl who worked on the same floor as her.¹⁰ Another fourteen-year-old, named Yaa Noor Akhter, also survived the collapse and she stated that there were at least three other girls of her age working at the factory.¹¹ They were all working there illegally, although the factory that employed her denies employing child labor.¹² The ages of these children emphasize a significant use of illegal child labor right that still goes unheeded.

Although Bangladesh was reported to have made moderate progress in 2017,¹³ the country still engages in the worst forms of child labor and human rights violations.¹⁴ Under Bangladeshi law, the legal age of employment is fourteen and the minimum age for hazardous work is eighteen.¹⁵ Yet, Bangladesh is home to a large number of abusive and dangerous child labor practices,¹⁶ including children as young as five working long hours for low wages in health-threatening and hazardous conditions.¹⁷ Much of the discourse regarding child labor in countries like Bangladesh is centered on the idea of childhood and the failure of developing countries to recognize the agency of children. One outcome of this discourse was a law called the Child Labor Deterrence Act (hereinafter “the Act”), which was passed in an attempt to resolve the problem of international child labor.¹⁸ The Act was received with much skeptic and controversy over the next

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* Contrary to what her employers claimed, Aanna provided The Telegraph with a copy of her birth certificate, which stated she was born in 2000. The Human Rights watch also found evidence that children who worked at Rana Plaza were forced to hide in bathroom stalls when inspectors visited.

¹³ UNITED STATES DEPARTMENT OF LABOR, FINDING ON THE WORST FORMS OF CHILD LABOR (2017).

¹⁴ *Id.*

¹⁵ The Bangladesh Labour Act, 2006 (Act No. 42 of 2006); Jason Beaubien, *Study: Child Laborers in Bangladesh Are Working 64 Hours a Week*, N.P.R. (Dec. 7, 2016), <https://www.npr.org/sections/goatsandsoda/2016/12/07/504681046/study-child-laborers-in-bangladesh-are-working-64-hours-a-week>.

¹⁶ CHILD LABOR: A GLOBAL VIEW 9 (Cathryne L. Schmitz, Elizabeth Kimjin Traver, & Desi Larson, eds. 2004).

¹⁷ Beaubien, *supra* note 15.

¹⁸ The Child Labor Deterrence Act, S. 613, 103rd Cong. (1993).

couple of years after it was enacted.¹⁹ It aimed at pressuring governments to eliminate child labor by placing an international ban on the trade of child-produced goods.²⁰ Though the proponents of the law seemingly meant well, the Act made the child labor situation in Bangladesh worse.²¹ The thousands of children who were released from garment factories soon after became much more economically vulnerable and were at a higher risk of being exploited.²² The Act relied on the assumption that by taking children out of employment in industries that export trade to the U.S., children would not seek employment elsewhere in more dangerous fields or that children will now shift their focus to more beneficial activities, like education or leisure.²³

Unfortunately, the child labor situation in Bangladesh needs more than recognition of children's rights. This paper argues that the child labor conversation should be giving the same degree of scrutiny and attention on eliminating poverty as is given to recognizing the agency of children and the sacred idea of childhood. One of the flaws with the Child Labor Deterrence Act was that in focusing too much on the idea that children should not be employed in the garment industry, proponents failed to ask the more difficult question - what are factors that brought these children here? In Bangladesh, the first and foremost cause of child labor is poverty. The poverty that a significant portion of Bangladeshi's face necessitates the economic contributions of children towards their families' or their own livelihood.

This paper is structured as follows. Part II of this paper provides general background information on child labor, the human rights violations involved, and global statistics. Part III

¹⁹ Mohammad Mafizur Rahman, Rasheda Khanam, & Nur Uddin Absar, *Child Labor in Bangladesh: A Critical Appraisal of Harkin's Bill and the MOU-Type Schooling Program*, 33 J. OF ECON. ISSUES 985, 985-1001 (Dec. 1999); *Thank You, Mr. Harkin, Sir!*, NEW INTERNATIONALIST (July 5, 1997).

²⁰ The Child Labor Deterrence Act, S. 613, 103rd Cong. (1993).

²¹ James P. Kelleher, *The Child Labor Deterrence Act: American Unilateralism and the Gatt*, 3 MINN. J. GLOBAL TRADE 161, 183 (1994).

²² *Id.*

²³ *Id.*

approaches the child labor situation in Bangladesh by exploring the social, economic, and cultural factors that cause children to the job market. These factors will be distinguished as push factors and pull factors.²⁴ In the child labor context, push factors are those that compel children to join the labor force and pull factors are reasons that attract children to work. This section also discusses the harmful psychological, physical, mental, societal, and developmental impacts child labor has on children. Next, Part IV discusses global and national approaches taken to eradicate child labor in Bangladesh, including the Child Labor Deterrence Act and Bangladesh's National Child Labor Elimination Policy 2010. After analyzing such efforts, Part V argues that the discourse on child labor should not solely be centered on recognizing and restoring basic rights to children, but it should also be including plans to alleviate the primary cause of the child labor – the widespread economic impoverishment of the child laborers.²⁵ Finally, Part VI will conclude with final thoughts.

II. WHAT IS CHILD LABOR?

There is no universal definition of child labor.²⁶ Child labor generally refers to work that impedes children's access to education and harms their physical, mental, moral, social, and developmental well-being.²⁷ The International Labor Organization (ILO) and United Nation's Children Fund (UNICEF) define child labor more specifically as when a child works below a certain age, works too many hours, and/or performs work that "imposes excessive physical, social, and/or psychological strains . . . in ways that hamper development."²⁸ The concept of child labor is a narrower concept than working children.²⁹ The latter concept includes both the child labor of

²⁴ Rahman et al., *supra* note 19, at 988-89.

²⁵ Bangladesh Bureau of Statistics, *Report on National Child Labor Survey*, 2013.

²⁶ CHILD LABOR: A GLOBAL VIEW 9 (Cathryne L. Schmitz, Elizabeth Kimjin Traver, & Desi Larson, eds. 2004).

²⁷ *Id.*

²⁸ *Id.* at 16.

²⁹ UNICEF, CHILD LABOUR IN BANGLADESH (2010).

persons below the age of eighteen³⁰ and the permitted employment³¹ of children above a legal working age.³²

Inherent in the definition, child labor clearly violates a number of fundamental human rights and international laws. For example, child labor infringes on a child's right to development to the maximum extent possible,³³ "to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay,"³⁴ to free and compulsory primary education,³⁵ to proper healthcare,³⁶ "to life, liberty, and security of person,"³⁷ and to special care and assistance.³⁸ Child labor also violates the right "to be protected from economic exploitation and 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," as provided in the Convention on the Rights of the Child (CRC).³⁹

In 2016, the ILO reported that 152 million children globally are engaged in child labor.⁴⁰ About 72.1 million child laborers exist in Africa; 62.1 million in Asia; 10.7 million in the

³⁰ Convention on the Rights of the Child, art. I. According to the Convention on the Rights of the Child (1989), a child is recognized as a person under eighteen years of age.

³¹ CHILD LABOR: A GLOBAL VIEW 5 (Cathryne L. Schmitz, Elizabeth Kimjin Traver, & Desi Larson, eds. 2004). The terms employment and economic activity are used interchangeably in the child labor discourse, with the exception that the International Programme on the Elimination of Child Labor ("IPEC") does not include domestic service in the definition of economic activity. As such, employment in this context is universally understood to be "children's paid and unpaid work in the formal and [informal] sectors of rural and urban areas."

³² INTERNATIONAL LABOUR ORGANIZATION, ENDING CHILD LABOR BY 2025: A REVIEW OF POLICES AND PROGRAMMES (2017).

³³ Convention on the Rights of the Child, art. VI.

³⁴ United Declaration of Human Right, art. 4.

³⁵ United Declaration of Human Right, art. 26; Convention on the Rights of the Child, art. XXVIII, Sept. 2, 1990

³⁶ INTERNATIONAL LABOUR ORGANIZATION, ENDING CHILD LABOR BY 2025: A REVIEW OF POLICES AND PROGRAMMES (2017).

³⁶ Convention on the Rights of the Child, art. XXIV.

³⁷ United Declaration of Human Right, art. 3.

³⁸ United Declaration of Human Right, art. 25.

³⁹ INTERNATIONAL LABOUR ORGANIZATION, ENDING CHILD LABOR BY 2025: A REVIEW OF POLICES AND PROGRAMMES (2017).

³⁹ Convention on the Rights of the Child, art. XXXII.

⁴⁰ INTERNATIONAL LABOUR ORGANIZATION, ENDING CHILD LABOR BY 2025: A REVIEW OF POLICES AND PROGRAMMES (2017).

Americas; 5.5 million in Europe and Central Asia, and 1.2 million in the Arab States.⁴¹ Of the 152 million children in child labor, almost half, 73 million, are engaged in hazardous work that compromises their health, safety, and moral development.⁴² Additionally, 76% of the child labor population are between the ages of five and fourteen and 24% are between fifteen and seventeen.⁴³ More than half of child laborers are engaged in the worst forms of child labor, such as hazardous work, forced labor, and armed conflict.⁴⁴ Many of these children work full-time and cannot go to school.⁴⁵ They also do not receive proper nutrition and care, and are denied the right to play and leisure.⁴⁶

To regulate and place restrictions on the employment and work of children, a number of international conventions were created. For example, the Minimum Age Convention (1973) sets the general minimum age for admission to employment at 15 years, 13 years for light work, and 18 years for hazardous work.⁴⁷ As a result, countries that ratified the Minimum Age Convention, and other international conventions, use these international standards as a guide in adopting legislation concerning child labor. However, the problem of child labor cannot easily be resolved by adopting legislation. It is important to recognize and discuss the factors that put children and their families in this situation and implement change from the ground up. The following sections explore the many factors that create child labor and discuss approaches taken internationally and locally to address the child labor situation in Bangladesh.

⁴¹ *Child Labour*, CHILD LABOUR DAY, <http://www.un.org/en/events/childlabourday/background.shtml>.

⁴² INTERNATIONAL LABOUR ORGANIZATION, *ENDING CHILD LABOR BY 2025: A REVIEW OF POLICES AND PROGRAMMES* (2017).

⁴³ International Labour Organization, *Global Estimates of Child Labour: Results and Trends, 2012-2016*, 2017

⁴⁴ *Child Labour*, CHILD LABOUR DAY, <http://www.un.org/en/events/childlabourday/background.shtml>.

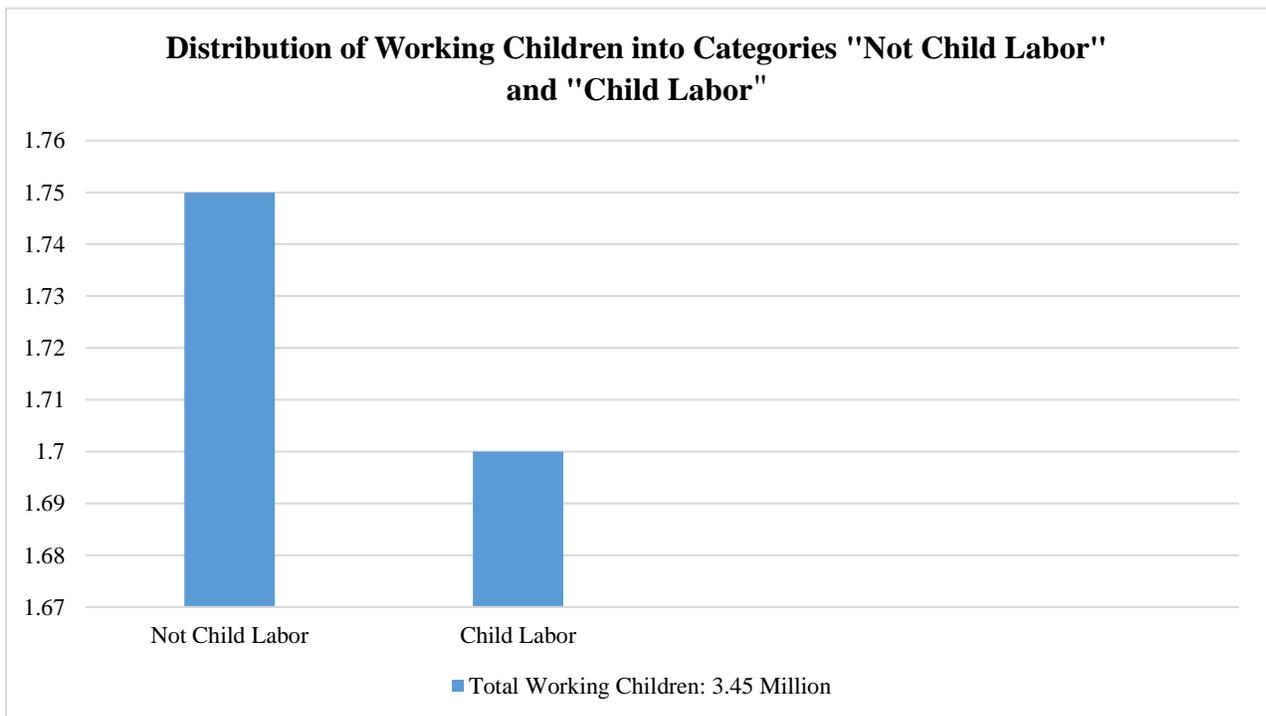
⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ International Standard on Child Labour, INTERNATIONAL LABOUR ORGANIZATION, <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/child-labour/lang-en/index.htm> (last visited Dec. 15, 2018).

III. THE CHILD LABOR SITUATION IN BANGLADESH

Bangladesh is one of the most child labor-abundant countries in the world. The child labor situation in Bangladesh has increasingly drawn attention on the national and international front. In fact, the issue of child labor has been extensively debated in Bangladesh, especially after the United States' adoption of the Child Labor Deterrence Act.⁴⁸ In 2013 report by the Bangladesh Bureau of Statistics found that there are about 1.70 million child laborers in Bangladesh.⁴⁹ Table 1 demonstrates the number of working children in Bangladesh, divided into "not child labor," or children in legally permissible employment, and the impermissible "child labor."⁵⁰



In light of the debates and numbers, Bangladesh made moderate progress in 2017 by implementing new policies and plans to eliminate child labor in its many forms.⁵¹ At the same time, many gaps

⁴⁸ Claire Salmon, *Child Labor in Bangladesh: Are Children the Last Economic Resource of the Household?*, 2005

⁴⁹ BANGLADESH BUREAU OF STATISTICS, REPORT ON NATIONAL CHILD LABOR SURVEY (2013). There are 1.75 million working children who do not fit the definition of child labor, altogether making for 3.45 million children who are working in Bangladesh.

⁵⁰ *Id.*

⁵¹ UNITED STATES DEPARTMENT OF LABOR, FINDING ON THE WORST FORMS OF CHILD LABOR (2017).

exist in these legal frameworks, social programs, and policies.⁵² In order to efficiently eliminate child labor in its many forms, these gaps must be addressed.

In comparison to ILO and UNICEF’s definition, Bangladesh has a lengthier, more specific definition of child labor. The Bangladesh Bureau of Statistics defines child labor as:

[P]aid or unpaid work that is mentally, physically, socially, or morally conjugated with danger to children or the infliction of harm to children; activities that deprive children of the opportunity to go to school, or in addition to school work and household responsibilities, loads additional work done in other places, which enslaves children and separate from their families; work performed by a child under the minimum age for entering employment relationship with the employer according to the labour legislation of Bangladesh.⁵³

Under Bangladeshi labor law, a child is defined as a person who is fourteen years old or younger and an adolescent is one “who has completed his fourteenth year but has not completed [his] eighteenth year of age.”⁵⁴ Additionally, employment of persons under fourteen years of age is prohibited, along with the employment of persons under eighteen years old in hazardous forms of child labor.⁵⁵ The Bangladesh Labour Act provides an exception for persons aged twelve and above as long as they are engaged in “light work” that which would not endanger his or her health and development or interfere with his or her education.⁵⁶ The exception, however, does not specify the number of hours per week or the kind of activities that are permitted for “light work.”⁵⁷ This violates subsection 2(b) and (c) of Article 33 of the CRC, which states:

State Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.⁵⁸

⁵² *Id.*

⁵³ BANGLADESH BUREAU OF STATISTICS, REPORT ON NATIONAL CHILD LABOR SURVEY (2013).

⁵⁴ The Bangladesh Labour Act, 2006 (Act No. 42 of 2006).

⁵⁵ *Id.*; see also UNICEF, CHILD LABOUR IN BANGLADESH (2010).

⁵⁶ The Bangladesh Labour Act, 2006 (Act No. 42 of 2006).

⁵⁷ UNITED STATES DEPARTMENT OF LABOR, FINDING ON THE WORST FORMS OF CHILD LABOR (2017).

⁵⁸ Convention on the Rights of the Child, art. XXXII.

Furthermore, with the exception of the minimum age for hazardous work, the Bangladesh Labour Act does not meet the international standards set by ILO's Minimum Age Convention, which Bangladesh has notably ratified.⁵⁹ The Act also does not cover work in the informal sector, where child labor is most prevalent.⁶⁰ These are some of the many gaps in Bangladesh's child labor laws and regulations.

There are gaps in the education legislation as well. While the Bangladesh constitution recognizes the right to free education for all children,⁶¹ its law on the compulsory education age presents another setback in the country's approach to adequately protecting children from child labor.⁶² Section 2 of the Primary Education (Compulsory) Act (1990) provides that education in Bangladesh is free and compulsory through the fifth grade, or until age ten.⁶³ Remarkably, there is a four-year gap between the compulsory age for education (10) and the minimum age for employment (14). The 2010 National Education Policy raised the age of compulsory education to fourteen, or to the eighth grade.⁶⁴ However, Bangladesh's legal framework has not yet been amended to reflect the revised policy.⁶⁵ Notably, this four-year gap is attributable to why poor Bangladeshi children do not attend school. There is less incentive for children who fall in that age gap and who cannot afford the costs associated with education to attend school. As discussed in further depth below, this becomes a factor for children entering the labor market instead of going to school.

⁵⁹ UNITED STATES DEPARTMENT OF LABOR, FINDING ON THE WORST FORMS OF CHILD LABOR (2017).

⁶⁰ *Id.* The informal sector includes domestic work, street work, or small agricultural farms.

⁶¹ BANGL. CONST., art. 17. ("The State shall adopt effective measures for the purpose of (a) establishing a uniform, mass oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law...").

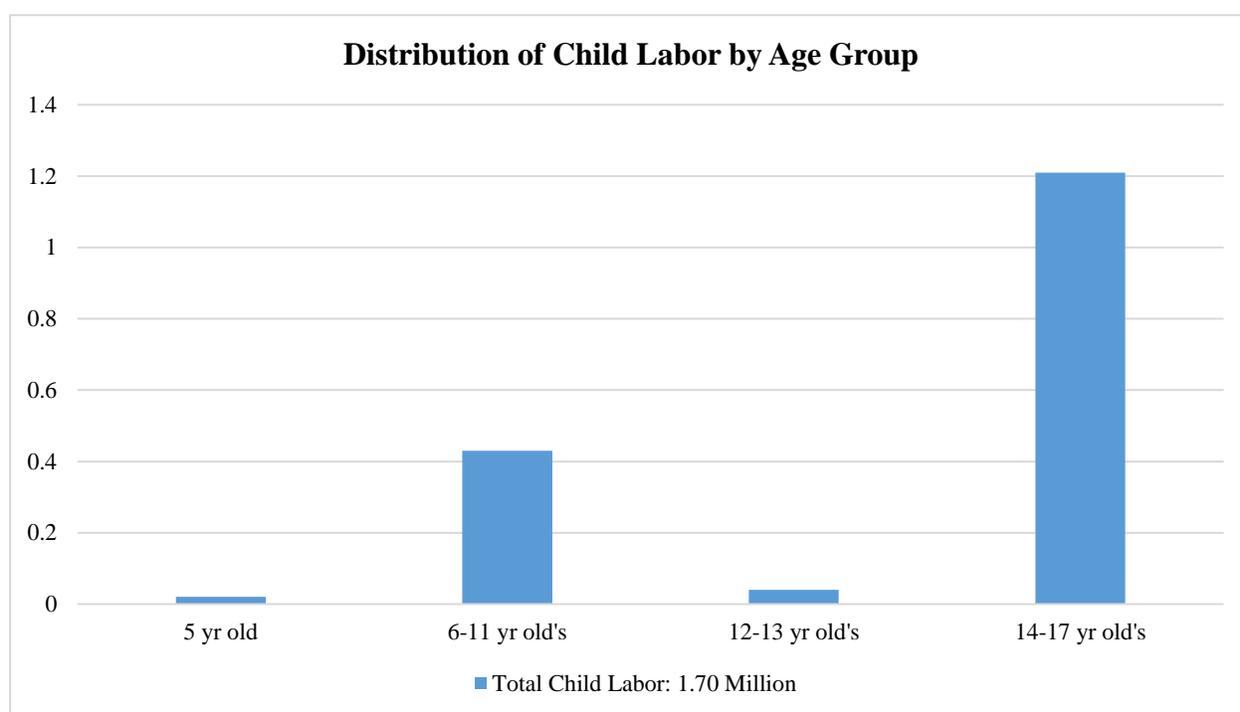
⁶² UNITED STATES DEPARTMENT OF LABOR, FINDING ON THE WORST FORMS OF CHILD LABOR (2017).

⁶³ The Primary Education (Compulsory) Act, 1990 (No. 2).

⁶⁴ UNITED STATES DEPARTMENT OF LABOR, FINDING ON THE WORST FORMS OF CHILD LABOR (2017).

⁶⁵ *Id.*

Child labor is a visible part of everyday life in Bangladesh.⁶⁶ Depending on where one is, children can be seen serving tea and food at roadside stalls or providing road transportation on rickshaws or working on railways and ports.⁶⁷ What is less visible is that behind closed doors, children are employed in homes as domestic workers, in garment factories, or in brothels as prostitutes.⁶⁸ Bangladesh children as young as five are employed in full time work.⁶⁹ Table 2 illustrates the distribution of child laborers by their age group.⁷⁰ A majority of the child laborers are between the ages of fourteen and seventeen.⁷¹



The second most common age group consists of children between six and eleven years old.⁷² The remaining group consists of five, twelve, and thirteen year old's. Children in each of these age

⁶⁶ UNICEF, CHILD LABOUR IN BANGLADESH (2010).

⁶⁷ *Id.*

⁶⁸ CHILD LABOR: A GLOBAL VIEW 19-20 (Cathryne L. Schmitz, Elizabeth Kimjin Traver, & Desi Larson, eds. 2004).

⁶⁹ UNICEF, CHILD LABOUR IN BANGLADESH, (2010). "Child employment rates increase with age, but even about two per cent of five-year-old's and three percent of six-year-old's work."

⁷⁰ BANGLADESH BUREAU OF STATISTICS, REPORT ON NATIONAL CHILD LABOR SURVEY (2013).

⁷¹ *Id.*

⁷² *Id.*

groups are forced to enter the labor force where they are provided with low wages, long hours, and detrimental impacts to their mental, physical, social, and developmental health.⁷³ On average, children aged five to seventeen work 39 hours a week and earn 5,859 takas (an equivalent of \$69.87 today) in monthly income.⁷⁴ Table 3 demonstrates the average monthly income of child laborers, distributed by monthly earnings, sex, age, and area.⁷⁵ Based on age group, it is evident that adolescents earn the most, which correlates with the fact that they are the most employed group. Notably, the lower the age group of the child workers, the lower the income.

Age Group	Male	Female	Rural	Urban	City Corporation	Average
	Monthly earnings in taka (USD)					
5 years	2062 \$24.65	2392 \$28.59	2062 \$24.65	2279 \$27.24	2750 \$32.87	2300 \$27.49
6-11 years old	2779 33.22	3062 \$36.60	2779 \$33.22	2618 \$31.29	3651 \$43.64	2902 \$34.69
12-13 years old	3210 \$38.37	5227 \$62.48	3210 \$38.37	4681 \$55.95	5889 \$70.39	4265 \$50.98
14-17 years old	6053 \$72.35	7493 \$89.56	6053 \$72.35	7120 \$85.10	7819 \$93.46	6578 \$78.62
Total	5541 (\$66.23)	6607 (\$78.97)	5541 (\$66.23)	6053 (\$72.35)	7142 (\$85.37)	5948 (\$71.09)

⁷³ Bangladesh – The Children – Child Labour, UNICEF BANGLADESH, https://www.unicef.org/bangladesh/children_4863.html. (last visited Oct. 21, 2018).

⁷⁴ BANGLADESH BUREAU OF STATISTICS, REPORT ON NATIONAL CHILD LABOR SURVEY (2013). This is table 5.39 on page 90 of the report. In 2002-2003, it was reported that on average, children worked 28 hours a week and made 977 takas a month. While there is an increase in the amount of monthly income in 2013, there is also a drastic increase in the number of hours. The Bangladesh Labor Act prohibits an adolescent from working more than forty-two hours in any given week. See The Bangladesh Labour Act, 2006 (Act No. 42 of 2006).

⁷⁵ *Id.*

More often than not, the conditions of child laborer's employment offer little to no assurance of their physical well-being and safety.⁷⁶ They are exposed to situations that make them vulnerable to violence, abuse, trafficking, and sexual exploitation.⁷⁷ In fact, children who are employed in the informal sector face high levels of exploitation as many of them work behind closed doors.

A. Why Do Children Work?

Overall, child labor is deeply rooted in mass poverty.⁷⁸ More than 24.3 percent of Bangladesh's population lives in absolute poverty and 12.9% live in extreme poverty.⁷⁹ On one hand, in situations where eviction from homes, dismissal from work, starvation, and health are at risk, the emotional and mental development of the child is put second to the physical survival and basic needs of the family.⁸⁰ On the other hand, employers prefer to hire children because they are easily exploitable to work longer hours than adults, and for minimum wages.⁸¹ Frequently, child labor is the result of a combination of these factors, which consequently creates a cycle of poverty. The following subsections explore the many factors that produce child labor in Bangladesh.

⁷⁶ ILO, BANGLADESH BASELINE SURVEY ON CHILD LABOUR SITUATION IN CONSTRUCTION INDUSTRY IN NARAYANGANJ AND MUNSHIGANJ DISTRICTS (2005). It was reported that 3,400 children work in brick or stone breaking for the construction industry. Almost all of these children have some sort of respiratory problem and are not equipped with any safety gear or protection from brick dust.

⁷⁷ UNICEF, CHILD LABOUR IN BANGLADESH, (2010). See Julfikar Ali Manik & Geeta Anand, *9-Year-Old Child Worker Dies in Bangladeshi Textile Mill*, N.Y. TIMES (July 25, 2016). In 2016, a nine-year-old boy named Sagar Barman was killed seven months after working in a textile mill. The boy's supervisor and several other linemen were accused of killing the boy by pumping air from a compressor machine into his rectum. Another boy who was twelve years old and worked at a motorcycle repair shop was killed in a similar manner in 2015.

⁷⁸ See Shahina Amin, M. Shakil Quayes, & Janet M. Rives, *Poverty and Other Determinants of Child Labor in Bangladesh*, 70 SOUTHERN ECON. J. 876, 877 (Apr. 2004); see also Rahman et al., *supra* note 19, at 988.

⁷⁹ *Bangladesh Continues to Reduce Poverty But at Slower Pace*, THE WORLD BANK (Oct. 24, 2017) <https://www.worldbank.org/en/news/feature/2017/10/24/bangladesh-continues-to-reduce-poverty-but-at-slower-pace>.

⁸⁰ Kanchana N. Ruwanpura & Leanne Roncolato, *Child Rights: An Enabling or Disabling Right? The Nexus between Child Labor and Poverty in Bangladesh*, 22(4) J OF DEVELOPING SOCIETIES 359, 361 (Dec. 2006).

⁸¹ BANGLADESH BUREAU OF STATISTICS, REPORT ON NATIONAL CHILD LABOR SURVEY (2013).

i. Push Factors

Push factors are compelling reasons why children feel they must enter the work force.⁸² The most common push factor in child labor is household poverty.⁸³ Most commonly, child laborers are an additional source of income for their families.⁸⁴ Many child laborers must miss out on their right to an education because they either lack the means or the time to go to school.⁸⁵ Even free education has indirect costs to account for, such as uniforms and school supplies.⁸⁶ Schooling also takes away the time and opportunity to earn money.⁸⁷ Additionally, there are limitations within the education system itself, such as poor teaching quality that may further discourage children from completing school.⁸⁸ As a consequence, children end up working in hazardous and low-wage jobs, such construction, brick-chipping, or domestic labor.⁸⁹ They are stuck in low paying and low-skilled jobs, thereby perpetuating the cycle of poverty.⁹⁰

Other push factors include death of one or all parents, death of the sole breadwinner, family disruption, or natural disasters.⁹¹ Natural disasters such as cyclones, floods, and droughts cause thousands of families to lose their homes and essentially become destitute.⁹² Families become rootless and unemployed and have to migrate frequently in search of a new home or job.⁹³ Children

⁸² See Rahman et al., *supra* note 19, at 988.

⁸³ Amin et al., *supra* note 78, at 879; Ruwanpura, *supra* note 80, at 362.

⁸⁴ Rahman et al., *supra* note 19, at 988; *see also*, Julfikar Ali Manik & Geeta Anand, *9-Year-Old Child Worker Dies in Bangladeshi Textile Mill*, N.Y. TIMES (July 25, 2016). Sagar's father stated in a phone interview that Sagar's employment in the same textile factory that he worked in was an additional source of income for the family.

⁸⁵ Rahman et al., *supra* note 19, at 988.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Bangladesh – The Children – Child Labour*, UNICEF BANGLADESH, https://www.unicef.org/bangladesh/children_4863.html. (last visited Oct. 21, 2018).

⁸⁹ *Id.*

⁹⁰ UNICEF, *CHILD LABOUR IN BANGLADESH* (2010).

⁹¹ Amin et al., *supra* note 78, at 877.

⁹² *Id.*

⁹³ *Id.*

become abandoned every year and those children must work for food or shelter.⁹⁴ Thus, when surrounding conditions are so compelling, poor children have no choice but to seek employment, be it in the formal or informal sector.⁹⁵

ii. Pull Factors

Pull factors lead children to join the labor market.⁹⁶ These factors are economic, social, and psychological in nature.⁹⁷ In fact, child labor is also deeply rooted in social customs.⁹⁸ One cultural factor that motivates families to send their children to work is a fear of idleness.⁹⁹ A majority of families in Bangladesh believe that their children should be kept busy.¹⁰⁰ They fear that any idleness makes their children prone to being involved in criminal activities and so, to avoid idleness, working is perceived as more appealing.¹⁰¹ Consequently, this social acceptability of child labor inevitably exposes children to situations that make them vulnerable to trafficking, abuse, and exploitation.¹⁰²

A motivating social factor is the belief that children's participation in certain economic activities where they are being prepared for adult work is a more valuable alternative to education.¹⁰³ For example, a young boy employed in an engineering workshop will learn valuable employable skills that are not easily picked up in school.¹⁰⁴ For a girl, employment as a maid will help prepare her to be a wife and mother.¹⁰⁵ Furthermore, schools are not always properly

⁹⁴ Rahman et al., *supra* note 19, at 988.

⁹⁵ *Id.*

⁹⁶ Rahman et al., *supra* note 19, at 989.

⁹⁷ *Id.*

⁹⁸ Amin et al., *supra* note 78, at 877 (Apr. 2004).

⁹⁹ *Id.*

¹⁰⁰ *Id.* This way of thinking is more common in the urban poor.

¹⁰¹ *Id.*

¹⁰² UNICEF, CHILD LABOUR IN BANGLADESH (2010).

¹⁰³ Amin et al., *supra* note 78, at 877.

¹⁰⁴ Rahman, *supra* note 33, at 989; Amin et al., *supra* note 78, at 877.

¹⁰⁵ *Id.*

supplied.¹⁰⁶ They are not always perceived as meeting the practical needs of poor families.¹⁰⁷ Hence, child labor is viewed more favorably.

Economic factors, such as a large availability of job opportunities, also pull children to seek employment.¹⁰⁸ Many employers demand child labor because a child can be paid less for the same work that an adult does.¹⁰⁹ Children can also be worked harder and longer than adults.¹¹⁰ They are easier to control and unlikely to form unions or protest against poor working conditions.¹¹¹ Therefore, when surrounding conditions make more favorable than leisure or school, there is a higher probability that children will work.

IV. APPROACHES TO THE CHILD LABOR SITUATION IN BANGLADESH

With a history of political instability, corruption, vulnerability to catastrophic natural disasters, Bangladesh has surely seen its fair share of challenges. Over the past few decades, Bangladesh has been subject to external pressures from international bodies to address its child labor situation. The government itself has established several mechanism and policies to coordinate its efforts to protect against child labor.¹¹² This section analyzes the Child Labor Deterrence Act in detail and examines where the Act went wrong in keeping children from child labor. Then, this section will discuss an approach taken by the Ministry of Labor and Employment of Bangladesh in 2010.

¹⁰⁶ Rahman et al., *supra* note 19, at 995

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ UNICEF, CHILD LABOUR IN BANGLADESH (2010).

¹¹⁰ Rahman et al., *supra* note 19, at 989.

¹¹¹ UNICEF, CHILD LABOUR IN BANGLADESH (2010); *See also*, Manik, *supra* note 77. In the case of Sagar, he was allegedly killed for protesting against employer abuse of employees. Although the article suggest that Sagar's parent was also berated by employers, the child was the one who paid the price. This emphasizes the fact that children are much easier to control than adults because of their vulnerability.

¹¹² UNITED STATES DEPARTMENT OF LABOR, FINDING ON THE WORST FORMS OF CHILD LABOR (2017).

In 1992, United States Senator Tom Harkin proposed a bill that urged the President to seek agreement with foreign governments that trade with the States to place an international ban on the trade of child-produced goods.¹¹³ In 1993, the bill passed as the Child Labor Deterrence Act, also informally known as the Harkin's Bill.¹¹⁴ The U.S. and other foreign nations declared that they would boycott goods produced by children who were below the universal minimum age of employment.¹¹⁵ Though the Act intended to eliminate child labor in the garment industry, it ended up doing more harm than good.¹¹⁶ In fact, the Act was received with much skepticism and controversy over the next couple of years after it was enacted.¹¹⁷

On July 4, 1995, the ILO and UNICEF compelled the Bangladesh Garment Manufacturers and Exporters Association ("BGMEA") to sign the Memorandum of Understanding ("MOU") with ILO and UNICEF.¹¹⁸ Under the MOU, children who worked in factories would be removed and placed in school.¹¹⁹ The dismissed children would be provided with monthly stipends and other "incentives" to cover the financial loss suffered.¹²⁰ After BGMEA signed onto the MOU, an estimated 50,000 children were dismissed from employment.¹²¹ This accounted for seventy-five percent of all children in the garment industry.¹²² While a schooling program was created to enroll the child laborers who were dismissed from the garment industry, only 1,464 of the estimated 50,000 dismissed child laborers were placed in schools by September 1996.¹²³ The program was

¹¹³ The Child Labor Deterrence Act, S. 613, 103rd Cong. (1993).

¹¹⁴ The Child Labor Deterrence Act, S. 613, 103rd Cong. (1993).

¹¹⁵ The Child Labor Deterrence Act, S. 613, 103rd Cong. (1993) ("The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years"); Rahman, *supra* note 33, at 986.

¹¹⁶ *Id.*

¹¹⁷ Rahman et al., *supra* note 19, at 985-1001; *Thank You, Mr. Harkin, Sir!*, NEW INTERNATIONALIST (July 5, 1997).

¹¹⁸ Rahman et al., *supra* note 19, at 986. *See also, e.g.*, Michael E. Nielsen, *The Politics of Corporate Responsibility and Child Labour in the Bangladeshi Garment Industry*, 81 INT'L AFFAIRS 559 (May 2005).

¹¹⁹ *Id.*

¹²⁰ Rahman et al., *supra* note 19, at 986.

¹²¹ *Thank You, Mr. Harkin, Sir!*, NEW INTERNATIONALIST (July 5, 1997).

¹²² Rahman et al., *supra* note 19, at 997.

¹²³ *Id.*

supposed to provide each child who regularly attended school a stipend of 300 taka (the equivalent of \$3.58 today) each month.¹²⁴ It was also supposed to offer employment to “qualified family members of terminated child works, and . . . the child workers [would] get an opportunity to work in the garment firm where they were previously employed[,] after they reach 14 years of age.”¹²⁵ Unfortunately, this schooling program had many flaws.¹²⁶ Children did receive 300 taka per month but that was 200 taka less than what they received under employment in the garment factory.¹²⁷ Also, the MOU did not guarantee security of the children’s placement in their previous firms after they had completed the schooling program.¹²⁸

In discussing the root of the child labor situation, the Child Labor Deterrence Act attributed the prevalence of child labor to widespread poverty further caused by “unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities among adult workers.”¹²⁹ The Act also suggested that the employment of children denies the gainful employment of adults:

The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broad based, self-reliant economic development in many developing countries.¹³⁰

Thus, in an attempt to keep children from a harmful and detrimental environment, the Act ironically did more to open up opportunities for adults rather than put children in safer, more

¹²⁴ Rahman et al., *supra* note 19, at 997.

¹²⁵ *Id.* at 997-98.

¹²⁶ *Id.* at 998.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ The Child Labor Deterrence Act, S. 613, 103rd Cong. (1993).

¹³⁰ *Id.*

beneficial environments.¹³¹ To the contrary, children were made poorer and much more vulnerable by the Act.¹³²

The Act failed to eliminate child labor for several reasons. First, proponents of the Act assumed that, upon dismissal, children would return to school or partake in other beneficial activities. Unfortunately, for most children, schooling is not an option. The Act failed to recognize that not all child laborers in Bangladesh were employed in the garment industry. The 50,000 children who were dismissed were a portion of millions of child laborers then existing in Bangladesh.¹³³ A child that is surrounded by conditions that push or pull, or both, him to the labor market will simply look for work elsewhere. Most of the children were displaced from garment factories did not rush to school. Instead, they found “alternative, less secure, and less lucrative employment in the informal sector.”¹³⁴

The Act also did not consider the fact that many of these children were an additional source of income for their families or that some were abandoned or orphaned. Their employment was their only means to surviving.¹³⁵ Not only did the Act take away their livelihood but also failed to adequately protect them afterward, thereby penalizing them for their impoverishment.

[T]he streets of Dhaka [were] overflowing with children that were literally deprived of a livelihood with little warning. Girls were forced into prostitution and boys were forced into scavenging, begging, and taking on any hazardous work they could find so that they could fend for themselves and/or their families.¹³⁶

Thus, this simple, straightforward plan of action to eliminate child labor in the garment industry ended up making children worse off than they were before.¹³⁷

¹³¹ Kelleher, *supra* note 21, at 183.

¹³² Rahman et al., *supra* note 19, at 998.

¹³³ Kelleher, *supra* note 21, at 183.

¹³⁴ Rahman et al., *supra* note 19, at 995.

¹³⁵ Ruwanpura, *supra* note 80, at 373

¹³⁶ *Id.*

¹³⁷ *Thank You, Mr. Harkin, Sir!*, NEW INTERNATIONALIST (July 5, 1997). In this article, some of the children who were fired from the garment factories expressed grief and resentment against proponents of the Act. One ten-year-

Following the ratification of the International Labor Organization Convention No. 182 (Worst Forms of Child Labor), the Bangladeshi government has established several mechanisms to coordinate its efforts to address child labor.¹³⁸ The Ministry of Labour and Employment in Bangladesh adopted a National Child Labour Elimination Policy, which provides a frame for eliminating child labor as well as protecting children and adolescents.¹³⁹ The Ministry of Labor and Employment comprises of official representing relevant government ministries, international organizations, and child advocacy groups.¹⁴⁰ The following chart lays out the key elements of the 2010 National Child Labor Elimination Policy.¹⁴¹

Strategic Area of Action	Objective	Target activities
1. Policy implementation and institutional development	With a view to eliminate child labour comprehensively, ensure proper action planning and institutional development and maintain transparency and accountability of programmes or activities.	Within the stipulated timeframe, formulating working strategy towards the elimination of the worst forms of child labor, and play appropriate role in developing and implementing necessary strategies.
2. Education	Providing free and compulsory pre-primary and, or primary education for the children who are likely to engage as child workers, and creating opportunities of practical and flexible education including semi-formal and secondary level education for working children.	Within the stipulated time frame, ensuring free, compulsory and quality education for working children.

old orphan named Moyna said her job at the garment factory supported her and her grandmother and now they were placed in a worse predicament.

¹³⁸ UNICEF, CHILD LABOUR IN BANGLADESH (2010).

¹³⁹ Ministry of Labour and Employment, National Child Labour Elimination Policy 2010 (Mar. 2010).

¹⁴⁰ MINISTRY OF LABOUR AND EMPLOYMENT, NATIONAL CHILD LABOUR ELIMINATION POLICY 2010 (Mar. 2010).

¹⁴¹ UNDERSTANDING CHILDREN'S WORK (UCW) PROGRAMME, UNDERSTANDING CHILDREN'S WORK IN BANGLADESH (July 2011).

3. Health and nutrition	In line with the National Health and Nutrition Policy, formulate specific and separate action plans for ensuring physical and mental health and nutrition of working children both at workplaces and homes, and effectively implement them.	In line with the national health policy, implement comprehensive health and nutrition programmes and projects for working children.
4. Social awareness raising and motivation	To raise social awareness among general population on elimination of child labor; to encourage people against child labor and change attitudinal and behavioral pattern towards the children.	To improve social awareness amongst the public at large including children and their parents or guardians, employers “or owners” associations, professional associations, and media; to raise awareness on family planning, elimination of economic exploitation and suppression; and to discourage people of all level to combat against child labor.
5. Legislation formulation and enforcement	To reform existing Acts, formulate rules for implementation of existing Acts and implement rules and regulations effectively to eliminate child labor including assurance of their safety through sound enforcement of Acts, rules and regulations.	Apart from formal sector, bring in the child labor in the informal sector within the ambit of existing laws, rules and regulations and add separate schedules for formal, informal, hazardous, safe, light and heavy work in which children are likely to be involved.
6. Employment or labor market	To create adequate employment opportunities and access to competitive labor market for children or adolescents after receiving appropriate trade-based skills training and becoming apt for work according to Act.	After the children engaged in both formal and informal sectors have acquired necessary skills in particular trades, ensure that they will receive technical training, as appropriate, and get employment at home and abroad. To also create adequate work opportunities to help them sustain themselves in the competitive labor market, and to create opportunities for families of working children to participate in income generating activities.

<p>7. Prevention of child labor and safety of children engaged in labor</p>	<p>To take necessary measures to prevent the incidence of child labor; to protect the working children from the possible casualties to their lives; to prevent unsafe migration of children from rural to urban area; and to reduce the life risks of working children through improving the working environment and conditions.</p>	<ul style="list-style-type: none"> - To arrange provision for fulfilling the fundamental rights of children at the grassroots level so that they may not have to migrate from the village to town for reasons like poverty, river erosion, family break up, etc. - To rehabilitate and create employment and alternative livelihood opportunities for the capable family members of the affected children; - To protect working children from hazardous work and to ensure all their lawful rights, including working hours and wages; and - To take necessary steps to prevent trafficking of children.
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The aims of the National Child Labor Elimination Policy 2010 include withdrawing children from different forms of hazardous jobs; improving income generating opportunities for parents so they are not so reliant on their children’s income; offering incentives for working children to attend school; and enacting laws and improving law enforcement to eliminate child labor.¹⁴² Notably, this framework doesn’t have an objective addressing poverty. According to an article recently published by the Daily Star, the National Child Labor Elimination Policy 2010 has withdrawn 90,000 children from hazardous forms of child labor.¹⁴³ Notably, the definition of “hazardous” child labor is broad and complies with the International Labor Organization’s Convention on the

Worst Forms of Child Labor:

If a child engaged in labour: works for more than 5 hours per day; performs such work that creates undue pressure on his/her physical and psychological health and social status; works in an insecure and unhealthy environment; works without wage

¹⁴² UNICEF, CHILD LABOUR IN BANGLADESH (2010); MINISTRY OF LABOUR AND EMPLOYMENT, NATIONAL CHILD LABOUR ELIMINATION POLICY 2010 (Mar. 2010).

¹⁴³ *Bid to Weed Out Hazardous Child Labour by 2020*, THE DAILY STAR (Dec. 12, 2018).

or with irregular payment or for low wages; carries out duties disproportionate to his or her capacity; works in such a condition that hinders his or her education; it is forced labour; is compelled to do such work which demean human dignity; becomes the victim of physical and/or mental torture and sexual exploitation; and gets no opportunity of leisure or recreation.

Additionally, the policy's implementation plan does not include the domestic sector of child labor.¹⁴⁴ However, it is unclear whether those 90,000 children have been removed completely from child labor or have received the same fate of the Act.

V. SHIFTING THE ATTENTION TO ALLEVIATING POVERTY

Poverty continues to be endemic in Bangladesh. About 22 million people live below the poverty line today in Bangladesh.¹⁴⁵ It is the first and foremost cause of child labor in Bangladesh. That is why this paper argues for the slight shift in focus to center around alleviating poverty. A family that is concerned with gathering their next meal will have little incentive or reason to consider pursuing proper education or leisure time. In other words, poverty necessitates that a child's right to education or leisure come second to surviving. That is not to say that restoring the right to education or leisure are not appropriate end goals of eradicating child labor. "There are no social, economic, or cultural justifications for children to work as bonded labor in near slave-like conditions, or for six or seven-year-old's to be working under hazardous factory conditions for ten to twelve hours a day for virtually no pay."¹⁴⁶ In an ideal situation, all children should absolutely be allowed to enjoy those basic human rights that they are entitled to. Rather, the point this paper makes is that approaches to child labor must factor in the economic situations and cultural customs that have carried child labor over the decades. This paper argues that regulations and courses of actions structured like the Child Labor Deterrence Act end up doing more harm than good to

¹⁴⁴ *Need Gap Analysis of Child Domestic Labour in Bangladesh*, GLOBAL MARCH (2017).

¹⁴⁵ *The World Bank in Bangladesh*, THE WORLD BANK (Oct. 8, 2018), <http://www.worldbank.org/en/country/bangladesh/overview>.

¹⁴⁶ Kelleher, *supra* note 21, at 187-88.

children. In focusing solely on the idea that children are children and they should not be participating in certain type of labor at such vulnerable ages, policymakers look over what consequences take place after children are removed from those activities.

Much of the conversation on child labor has been centered on the sacred concept of childhood. Yet, the parameters of the concept of “childhood” are not clear. There isn’t a universal definition on child labor. That’s probably because different societies define childhood under different thresholds. The idea of childhood in developing countries is bound to be different than in western or developed countries. Thus, an approach centered around the concept of “childhood” does not take into consideration cross-cultural differences. Child labor should be discussed within its existing political, social, and material realities. Furthermore, too much attention on this unclear definition of “childhood” seems to overlook an important fact in the child labor discourse. That is that child laborers are “a specific portion of the child population that is exploited. That is to say the exploited are generally children who must work, that is, they are almost always poor children.”¹⁴⁷ Children who don’t need to work are always better off than children who have no choice but to work. That is why this child laborers are distinguished from working children.¹⁴⁸ The childhood-focused approach could restore the basic rights of being a child but can do little to nothing about the fact that those children will remain poor, and thus still vulnerable.

The child labor situation cannot be resolved simply by removing children from impermissible work and placing them in more beneficial activities. Nor can it be resolved if the action is done to one area of child labor, just as the Child Labor Deterrence Act focused on

¹⁴⁷ Ruwanpura, *supra* note 80, at 365.

¹⁴⁸ *Id.* Ruwanpura even contends that unlike women’s oppression where women are the targeted group, here child as a category are not necessarily seen as oppressed. This paper doesn’t necessarily agree with that contention. However, it is this paper’s argument that an approach from the context of poor children rather than children as a whole category is necessary in this child labor discourse.

employment in the formal garment industry. The crippling core of child labor is its cyclical nature of poverty. Children enter the labor force because they are poor, and children remain poor because they are employed in low-paying jobs. Policymakers, government authorities, and international organizations must provide a remedy for children after they have been taken out of one harmful environment to ensure that they do not end up in a more dangerous environment.

Despite the measures that the government of Bangladesh and global bodies have taken, significant gaps still exist in current institutional mechanisms and governmental policies. Those gaps must be addressed in order to eliminate the problem of child domestic labor. The external pressure of the Act demonstrates that a simple, straight forward tactic is highly impractical and dangerous. Most importantly, the poverty gap in the discourse about child labor in Bangladesh also must be addressed. For example, the National Child Labor Elimination Policy 2010 also needs to incorporate a plan to alleviate the poverty issue that runs through Bangladesh. The child labor situation requires action implemented from the top down (government, legislative bodies, law enforcement) and from the ground up (via NGOs, UNICEF, etc.).

VI. CONCLUSION

Bangladesh is home to a large number of abusive and dangerous child labor practices, including children as young as five working long hours for low wages in health-threatening and hazardous conditions. Much of the discourse regarding child labor in countries like Bangladesh has been centered on the failure of developing countries to recognize the agency of children. However, the child labor situation in Bangladesh needs more than recognition of children's rights. If the Child Labor Deterrence Act has demonstrated anything, it is that a course of action that simply removes children is likely to worsen the child labor situation. Whether or not legal changes take place, child laborers will still be compelled to earn an income. The purpose of this paper was

to illustrate that in the context of child labor in Bangladesh, childhood and child rights are interrelated with the issues of poverty. The child labor situation requires more than scratching the surface. It is necessary for the future of Bangladeshi children like Aanna, Moyna, and Sagar that policymakers give the same degree of scrutiny and attention on eliminating poverty as they have been giving to the sacred idea of childhood.