

A Critical Review on Rights of Persons with Disabilities in Bangladesh

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Abstract

Bangladesh became a signatory and ratifying state party to the convention of the United Nation CRPD (Convention on the Rights of Persons with Disabilities) on 9 May, 2007 and 30 November, 2007 respectively. The Rights of Persons with Disabilities in Bangladesh is better than any period after the initiation of Bangladesh. However the present study has conducted to examine the exact situations of human rights for persons with disability and to provide policy recommendations for ensuring human rights of persons with disability. The study was conducted in Bangladesh. The study was documentary analysis type. Data and information were collected from secondary sources such as Books, Journal, Research Report, Different websites and Annual Reports of different websites of the Peoples' Republic of Bangladesh, Internet etc. From the result it was found that preferences should be given for the persons with disability for their access in every sectors of the state, justice, Rights of Disabled Women, Right to education, Right to Health, Right to Work and Employment and Right to Political and Public Life. The study revealed that some advocacy intervention to promote education of children with disabilities. These include comprehensive effort to develop complementary policy and legislative measures, extensive motivation and sensitization to the school management, inclusive educational environment infrastructure and behaviour, teachers' capacity building, and appropriate teaching-learning materials. Government of People's Republic of Bangladesh is doing a lot of works for the persons with disability. Most of the cases Bangladesh have become success. However, the lacks and gaps should be identified and massive works should be done to solve the lacks and gaps.

Key words: Rights, Persons with Disabilities, Education, Justice, Employment.

INTRODUCTION

Once upon a time Bangladesh was a poor country. Due to the massive works in different sectors for the last ten years, Bangladesh has become a middle income country. Bangladesh has achieved this status due to the prudential leadership of Honourable Prime Minister Sheikh Hasina. Bangladesh is very much cautious about the rights of persons with disabilities. Massive works, developments have been done for the persons with disabilities in Bangladesh.

Though many works have done there are some persons with disabilities (children, men, and women) are being bound to start begging on the street just for survival. Street beggars are being treated as lower cast in our society and they are being isolated. They do not have values and not even having minimum respect in the society. Some disabled persons who are street beggar living inhuman lives. Their rights are being violated in every sphere of lives. Earning money and economic independence is the way to establish a person's self-confidence, self-esteem, acceptance and dignity in the family as well as society, but that must be in a dignified way or profession. Inaccessible infrastructure, transport system, unfriendly workplace environment and office equipment and inaccessibility in the financial support are the major barrier for employment of persons with disabilities in a dignified way.² According to the Constitutions of Peoples Republic of Bangladesh, every citizen has right to get education from the state. Once upon a time the disable child had no right to get education from the state. Recently, for the initiations of present government, the persons with disabilities are getting all facilities for education.

Hopefully, the study will be beneficial in implementing any programme undertaken by any private or government organization for the welfare of these persons with disabilities. As a result, it will be possible to increase rate of literacy in Bangladesh as well as in other parts of the world. Subsequently, the society will also function normally in view. During the last couple of years, disability, as a development issue is gradually gaining some recognition. The status, acceptance and importance of any adult individual in the family as well as community is primarily depends upon his/her economical status and contribution. It is of utmost frustration for any individual to remain unemployed. It has its psychological costs as well. In a developing country like Bangladesh, one has to face many challenges, barriers, and competitions to find a job or to be employed. In this situation it is almost impossible for Persons with Disability to find a job or start economic activities.

In past situation of employment of even skilled/educated persons with disabilities in Bangladesh is not encouraging. They are not only facing immense competition from people who are not disabled but also the unfair barriers created due to negative attitudes of the employers. Even if a few are employed, they are dropped in an environment that is mostly unfriendly and unsuited with regard to their disability. But at present for the endeavor of present government situation of employment of even skilled/educated persons with disabilities in Bangladesh is increasing. Because the present government has allotted quota in any job for the disabled people.

² Centre for Services and Information on Disability (CSID): Project title: Support Disabled Beggars in Dhaka City

On 13 December 2006, the United Nations General Assembly formally adopted the Convention on the Rights of Persons with Disabilities (CRPD), the first human rights treaty advocating for the rights of disabled persons. Bangladesh became a signatory and ratifying state party to the CRPD on 9 May, 2007 and 30 November, 2007 respectively¹. Bangladesh is required to submit an initial report describing the state of implementation of the rights of persons with disabilities within two years, on or before May 2010 (Article 35, CRPD) but has not done so to date.

OBJECTIVES OF THE STUDY

The objectives of the study are as follows:

1. To evaluate the exact situations of human rights for persons with disability.
2. To provide policy recommendations for ensuring human rights of persons with disability.

METHODOLOGY OF THE STUDY

The study was documentary analysis type. Data and information were collected from secondary sources such as Books, Journal, Research Report, Different websites and Annual Reports of different websites of the Peoples' Republic of Bangladesh, Internet etc.

REVIEW OF LITERATURE

Recently the Government of People's Republic of Bangladesh has made some laws related to the rights of Persons with disabilities such as Mental Health Act 2018, Child Sonsodon (Rehabilitation) Act 2018, Bangladesh Rehabilitation Council Act 2018, Neuro Developmental Disability Security Trust Act 2013 and The Disability Rights Act 2013 which is a great milestones for the rights of Persons with disabilities. However, different laws related to the rights of Persons with disabilities are discussed below:

A) Accessibility for Persons with Disabilities

Article 9 of the CRPD requires accessibility for persons with disabilities to buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; and to information, communications and other services, including electronic services and emergency services. (Article 9 (1))

The State's obligations in this regard include *monitoring* the implementation of minimum standards and guidelines for accessibility of facilities, *training* those to assist to ensure accessibility to PWDs and *promoting* the design, development, production and distribution of accessible information.

Laws and Policies Promoting Disability Rights

The **2013 Disability Rights Act** defines 'accessibility' (Section 2 (13)), in line with the CRPD, as including:

- a) *physical accessibility* into all premises (public and private including open space and buildings) and the ability to use public transport without restrictions, as well as
- b) *unrestricted access to opportunities and services*, information, data, technology and any form of communication.
- c) regarding accessibility to public transport, the Act requires owners, authority, drivers or conductors in charge of the transport to reserve 5 % of seats (on boats, airplanes and land transport) for persons with disabilities. (Section 32(1))

Regarding existing public buildings and structures, if any are identified as inaccessible, prompt arrangements must be made by the State to make them accessible for PWDs (Section 34). For new buildings and structures, the Building Construction Act, 1952 must be followed (Section 34(1)). All public and private buildings, roads, transportation, indoor and outdoor facilities, including schools, medical institutions and health care service buildings and workplace premises must be accessible for PWDs (Part 5, Schedule). Penalties for any owner, authority, driver or conductor who fails to comply include revocation of the license of the public transport body in question, provided that the Transport Committee submits an application to the Bangladesh Road Transport Authority (BRTA) requesting this (Section 32(2)). All forms of information and communication and all mediums of technology and language used for accessing information/communication must be accessible and user friendly for PWDs (Parts 4 and 6, Schedule).

Regarding accessibility to buildings, the **Building Construction Act, 1952** have been supplemented by the more recent **Building Construction Rules, 1996** and the Dhaka Metropolitan Building Construction (Construction, Development, Protection and Removal) Rules, 2008. Rules 5(5) and 13 of the BCR provide the specifications for construction of wheel-chair accessible ramp.

Rule 75 of the Dhaka Metropolitan BCR 2008 provides for universal accessibility for all including persons with disabilities. Schedule 3 sets up the minimum standard and specifications to ensure barrier free access to a building through installation of ramps, handrails and lifts and by reserving separate parking space, washroom toilet and entry and exit points for the use of PWDs. Additional provisions lays down the requirement for all buildings to have at least one toilet or in the case of a building with more than one toilet on each floor, at least 5% of the total number of toilets should be reserved for people with disabilities (Section 64, Dhaka Metropolitan BCR, 2008).

The **Bangladesh National Building Code 2008** also contains disabled friendly construction rules and guidelines. The definitions on 'accessibility' and 'adaptability' comprehensively cover facilities or any part of them that can be approached, entered and used without assistance by persons with temporary or permanent physical limitations. They also provide for adaptable spaces/features designed for persons with physical limitation to have access to adaptable toilets, kitchens, lifts and so on. (Part 3)

The **Right to Information Act, 2009** gives every citizen the right to access 'information' (as defined in Section 2 (d) (f) of the Act) from any 'authority' (as defined in Section 2 (b)). It includes two **disability friendly provisions**. Firstly an 'officer in charge'²⁵ of any missing word shall provide assistance to a person with sensory disabilities to enable them to gain access to information (Section 9(10)). Secondly, any information published or publicized by any authority under the Act, must be indexed in a manner accessible to all (Section 6(1)).

The National ICT Policy, 2009 expressly aims “to create mainstream social advancement opportunities for disadvantaged sections of the society including persons with disabilities and special needs (Article E.1 “Social Equity”). It provides that everyone shall have the opportunity to access all electronic technologies used in creating, storing, processing, communicating and disseminating information (Article3).

B) Access to Justice for Persons with Disability

Article 13 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) requires the state to ensure access to justice for persons with disabilities on an equal basis with others (through procedural and age-appropriate accommodations), and to provide appropriate training for those working in administration of justice, including police and prison staff.

Laws and Policies Promoting Disability Rights

The 2013 Disability Rights Act provides the following:

- a) A disabled person is entitled to have access to justice ¹ and is entitled to equal protection under the law. ²
- b) All discriminatory behaviours or actions on the part of any individual, organization or government authority against a disabled person are prohibited.³
- c) Preventing a PWD from accessing justice is punishable by law. ⁴
- d) Police, prison and court officials require training on disability rights and issues. ⁵
- e) The State is obligated to take all steps (including the appointment of an interpreter) to ensure access to justice for disabled victims of violence.⁶

The Legal Aid and Services Act, 2000 expressly secures the right to access to legal aid and services for persons who are “poor, insolvent, destitute, and otherwise incapacitated for socio economic reasons”.⁷ The Legal Aid Service Rules 2014⁸ makes particular mention of PWDs in its list of eligibility.⁹

The Penal Code 1860 provides protection to persons with intellectual disabilities by recognizing that a person who is not capable of understanding the illegality or the nature of an act cannot be held responsible for committing an offence, on the basis of unsoundness of mind.¹⁰

The Evidence Act 1872 states that all persons, including PWDs, are competent to testify, unless prevented by a mental incapacity related to understanding the questions put to him/her and giving rational answers to them. Any witness who is unable to speak may give his/her evidence in any other manner, i.e. writing or by signs.¹¹

The Code of Criminal Procedure 1898 and in particular Sections 199, 199A and 468- 475, provide special procedure for any accused who is identified as a “lunatic”, including for release of the “lunatic” pending investigation or trial, and custody of the “lunatic”.

Under the **Code of Civil Procedure, 1908** consent or agreement for any person with disabilities may be given on their behalf by their next friend or guardian of such person in any proceeding with the permission of court (Section 147 CPC). Further, Order XXXII of the CPC sets out special provisions for suits by or against persons of unsound mind and Order XXXIII allows for pauper suits.

The Succession Act, 1925 allows for disabled persons to make wills as long as s/he can comprehend what is being achieved through the making of such wills.

The Labour Act 2006 provides ¹² for compensation in the event of a workplace injury or death and depending on the nature of injury (permanent or temporary) the amount is listed in Schedule of the Act.

Section 1 of the **Fatal Accidents Act 1855** states that whenever the death of a person is caused by a wrongful act/neglect/default, the executor, administrator or representative of the deceased may sue for compensation to the family of the deceased for loss occasioned due to the death of that person. Under this Act, the Court may give such damages as it may think proportionate for such loss.

The Motor Vehicles Ordinance 1983 allows for a claim of compensation to be made in the event of a personal injury arising from the use of a motor vehicle in a public place. ¹³ It also sets out the duty ¹⁴ of a driver in case of an accident/injury to a person and the insurance policy requirements and procedures for making a claim.

¹ Section 38 (1), Rights of Persons with Disabilities Act, 2013.

² Section 16 (1) (b), Rights of Persons with Disabilities Act, 2013.

³ Section 16 (2), Rights of Persons with Disabilities Act, 2013.

⁴ Section 37 (1) and Part 12 of the Schedule, Rights of Persons with Disabilities Act 2013.

⁵ Schedule 12 (ka), Rights of Persons with Disabilities Act, 2013.

⁶ Schedule 12 (gha), Rights of Persons with Disabilities Act, 2013.

⁷ Section 2 (a), Rights of Persons with Disabilities Act, 2013.

⁸ Jatiyo Ain Shahayota Bidhimala: <http://nlaso.gov.bd/wp-content/uploads/2014/06/policy-rules-2014.pdf>

⁹ NLASO Website: <http://nlaso.gov.bd/wp-content/uploads/2014/06/policy-rules-2014.pdf>

¹⁰ Section 84, Penal Code, 1860.

¹¹ Section 118, Evidence Act, 1872.

¹² Section 2 (1), 19 and 151 of the Labour Act, 2006.

¹³ Section 129, Motor Vehicles Ordinance, 1983.

The **National Human Rights Commission Act, 2009** enables aggrieved persons facing human rights violations to bring complaints to the Commission to inquire into whether any public servant was responsible and to provide remedies.

Disabled persons like Swapan Chowkidar, lawyer with visual disabilities, have used the existing national laws to achieve a landmark ruling¹⁵ from the High Court Division of the Supreme Court of Bangladesh. This decision allowed PWDs to sit in the 33rd Bangladesh Civil Service Examinations (BCS)¹⁶ and also directed the Public Service Commission to arrange 'reasonable accommodation' in examination halls thus enabling 44 disabled candidates to appear for the 33rd BCS exams for the first time in the history of Bangladesh.¹⁷ Other similar cases filed sought recognition of their rights to sit in JSC and PSC exams.¹⁸

C) Rights of Disabled Women

Article 6 of the CRPD requires the State to take measures to ensure the full and equal enjoyment by women and girls of all human rights and fundamental freedoms and to take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the CRPD.

Laws and Policies

Section 16 of the **2013 Disability Rights Act** secures the fundamental rights of all persons with disabilities, including women and girls. Section 36 (1) prohibits any discrimination or discriminatory behavior by any individual, organization, institution or authority to any person with a disability.

The **National Women's Development Policy, 2011**¹⁹ sets out its 'Special Program for the Disabled Women' which not only recognizes every women's right to honour and dignity but also ensures that all disabled women are part of the mainstream society and have equal participation in all areas of life including education. The policy also calls for framework, facilities and services to be accessible to all disabled women so that they fully benefit from the rights and facilities granted under this Policy.

To ensure accessibility of PWDs into financial services, the Bangladesh Bank have issued a circular (See annexed GBCSRD Circular No: 01 dated 20th January 2015) announcing that under the **Ministry of Social Welfare's 'Social Security Program'**, all PWD's can now use their National ID to:

- Open a bank account by providing a token deposit amount of Tk. 10 only and
- Apply for SME loans for any amount between TK. 10,000 – Tk. 5,00,000 with a minimal interest rate of 10% only and apply for a 100% refinancing of these debts under the 'Bangladesh Bank fund' Regulations (especially beneficial for disabled SME women entrepreneurs).

The circular further states the bank will also comply with circular (BRPD Circular No: 14) issued on 28th October 2009 and make available a dedicated bank personnel at every branch to assist PWDs and provide them with banking services.

The **Ministry of Social Welfare** also runs several **benefit schemes** for PWDs. PWDs who are poor are now entitled to Tk 350 to Tk 500 a month under this scheme.²⁰

Laws criminalizing particular forms of violence against women include Acts such as the **Dowry Prohibition Act, 1980** which prohibits and penalizes the giving and taking of dowry in all its forms by a fine of a maximum of five thousand taka, imprisonment of up to one year or both. Also **The Child Marriage Restraint Act, 1929** prohibits child marriage and sets out penalties for those responsible.

D) Freedom from Exploitation, Violence and Abuse

Article 16 of the CRPD sets out the State's obligation to ensure freedom from exploitation, violence and abuse for PWDs through undertaking appropriate legislative, administrative, social, educational and other measures, putting in place effective women and child focused legislation and policies, providing recovery, rehabilitation, enabling social reintegration of PWDs who are victims and finally, preventing the occurrence of and protecting PWDs from all forms of exploitation, violence and abuse, including their gender-based aspects.

¹⁴ Section 104, Motor Vehicles Ordinance Act, 1983 states that: "When any person is injured or any property is damaged as the result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall- (a) take all reasonable steps to secure medical attention for the injured person, and, if necessary convey him to the nearest hospital, unless the injured person or his guardian (in case he is a minor), desires otherwise;..."

¹⁵ *BLAST and another vs. Bangladesh and others [Discriminatory Reservation Case] Writ Petition No. 1783 of 1998* (Judgment date: 20th March 2012) BLAST website "Disability Rights": <http://www.blast.org.bd/issues/disabilityrights>

¹⁶ Schedule III of Bangladesh Civil Service (Age, Qualification and Examination for Direct Recruitment) Rules, 1982, being No. S.R.O. 142-L/82/ED/Recruitment/1-15/80 setting the standard for physical fitness of the eligible candidates for appointment to a cadre post of Bangladesh Civil Service, that makes persons with disabilities ineligible for such posts.

¹⁷ Rights Watch, Saturday, November 10, 2012 "High Court directed to allow Disabled Persons to sit for BCS exam": <http://humanrightslawclinic.blogspot.com/2012/11/high-court-directed-to-allow-disabled.html>

¹⁸ *BLAST and others v Bangladesh and others [JSC Disability Discrimination' Case] Writ Petition No. 2867 of 2010* (pending hearing to allow disabled candidates to appear for the Judicial Services Examinations) and *BLAST and others v Bangladesh and others [PSC Disability Discrimination' Case] Writ Petition No. 2932 of 2010* (pending hearing to allow disabled candidates to appear for the Public Services Commission Examinations. BLAST website "Disability Rights": <http://www.blast.org.bd/issues/disabilityrights>

¹⁹ Section 39, National Women's Development Policy, 2011

²⁰ Msw.gov.bd., 'Ministry of Social Welfare - Home'. N. p., 2009. Web. 13 Feb. 2015.

Laws and Policies Promoting Disability Rights

Section 16 of the **2013 Disability Rights Act** ensures the right of all disabled persons to equal protection under the law, access to justice, a fulfilling life and to develop. It expressly provides for a disabled person's right to be free from violence and to live life in a healthy and secure environment.

Schedule 12 of the Act requires the State to train duty bearers of the justice system to ensure unrestricted access to justice to PWDs who are victims of violence, exploitation and torture, arrange health services, rehabilitate any disabled victims of sexual violence, take steps to arrange for safe custody for a victim of violence, and lastly, to take all necessary steps to ensure legal services for them.

The Legal Aid and Services Act, 2000 expressly secures the right to access to legal aid and services for the "poor insolvent, destitute, and otherwise incapacitated for socioeconomic reasons".²¹ Schedule 2 (2) of the National Legal Aid Services Rules specifically mention PWDs as eligible for legal aid.

The Evidence Act 1872 states that all persons are competent to testify; however it excludes all those prevented by a mental incapacity (i.e persons with intellectual disabilities) from understanding the questions put to him/her and giving rational answers to them. It enables any witness who has speech impairments to give his/her evidence in any other manner, i.e. in writing or by signs.²²

The Penal Code 1860²³ and in particular Chapter XVI deals with offences against the person and Section 299 – 311 deals with offences from murder to death by negligence. Offences causing miscarriage to a pregnant woman and an unborn child is also dealt with under this Act. Bodily harm whether it is grievous or not are defined as an offence and are found in Section 319-338A. Other offences such as wrongful constraint, kidnapping, slavery and forced labour are all listed as punishable offences under this Act. Lastly, Rape is defined in Section 375 of the Act while the punishment for rape is given under Section 376. The **DNA Act 2014** contains provisions that allows for the checking of evidence of rape and paternity checks.

The Code of Criminal Procedure 1898 is a procedural law containing Sections in Chapter VI, Section 339 B, Section 344 and Sections contained in Part VII that deals with summons of persons, trial in absentia, adjournment and appeals in criminal cases.

The Dowry Prohibition Act, 1980 prohibits and penalizes the giving and taking of dowry in all its forms by a fine of a maximum of Tk 5000, imprisonment of up to one year or both.

The Suppression of Violence against Women and Children Act 2000 deals with prosecution of perpetrators of certain forms of violence against women and children and provides redress and some victim protection. The Act provides for compensation for the victim and offers remedial measures for negligence or willful faults by an investigating officer. It also provides for speedy investigation and trial of cases, and the creation of specific tribunals for every district town.

The Domestic Violence (Prevention and Protection) Act, 2010 provides remedies against physical, psychological, economic and sexual abuse, by persons who are, or have been, in a family relationship. It ensures access to shelter homes, medical and legal aid services for victims/survivors. Under this Act, Judicial Magistrates may make protection orders, residential orders, maintenance orders and safe custody orders, direct payment of compensation and penalize those breaching such orders by prison terms and fines. Protection orders restrain a respondent from committing any act of domestic violence, entering the victim's place of employment or school and having any personal, written or any form of communication with the victim, residence and maintenance orders. Any person breaching a protection order may face up to six months' imprisonment and up to two years in case of multiple offences.

Paragraph 8 of **The National Women's Development Policy, 2011**²⁴ is specifically dedicated to the development strategies that ought to be taken to prevent violence against women. It details the services that women facing abuse can get from Women Support Centers (WSCs), One Stop Crisis Centers (OCCs) currently in six divisional towns, including one stop health care facilities, legal services, police support, shelter and rehabilitation; psycho-social counseling services through the National Trauma Counseling Centre at the Department for Women Affairs ; the Victim Support Centers (VSCs) and Tribunals on Suppression of Violence against Women and Children across the country.²⁵

E) Rights of Education for the Person with Disabilities

Article 24 of the CRPD provides for the life-long right to education for PWDs. The State's obligations include non-exclusion from general education system on the primary, secondary and higher level, provision for reasonable accommodation, tailoring the mode of education to individual's requirements, undertaking appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and training professionals and staff who work at all levels of education.

²¹ Section 2 (a), Rights of Persons with Disabilities Act, 2013.

²² Section 118, Evidence Act, 1872.

²³ The Penal Code 1860: http://bdlaws.minlaw.gov.bd/pdf_part.php?id=11

²⁴ National Women Development Policy 2011 at http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/64238d39_0ecd_4a56_b00c_b834cc54f88d/National-Women-Policy-2011English.pdf

²⁵ National Women Development Policy 2011 at http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/64238d39_0ecd_4a56_b00c_b834cc54f88d/National-Women-Policy-2011English.pdf

Laws and Policies Promoting Disability Rights

The Disability Rights Act ²⁶ refers 'general education' for those studying with non-disabled students and 'special education' for disabled people with special needs, requiring extra care and taught through a different mode of education. It guarantees the right to 'access to education' for every disabled person (Section 16 (g)) including the right to participate in either general or special education. A disabled person is entitled to an appropriate environment and access to all opportunities during their course of study (Section 16(d)).

The head/authority of an educational institution is prohibited from preventing admission of a disabled person on the basis of discrimination, and the Act details the consequences for doing so (the committee under the 2013 Act can send recommendations to the regulatory committee of the said educational institution to take the necessary steps against the head/authority concerned (Section 33(1) of the Act. A disabled person who faces discrimination during admission may register a complaint to the School Committee or to the District Committee (Section 36).

The Act also requires that all public places including schools and educational institutions are accessible to people with disabilities (both adults and children) who must have unrestricted access to the institution's services and facilities (Part 5, Schedule).

The Act also secures provisions for relaxing the age limit for school going children with disabilities, creating a larger quota in educational institutions for student with disabilities, providing training to the employees of educational institutes and equipping institutes with necessary facilities, increasing exam duration for examinees with disabilities or appointing a writer as an alternative and providing disabled students with suitable reading materials (Part 9, Schedule). It also requires use of Bengali sign language for the benefit those who have hearing and speech difficulties in all places including in all educational institutions and appointment of a speech language therapist where deemed necessary (Part 4, Schedule).

Furthermore, penalties for cruelty to children are set out in the Children Act 1974, and such actions may also constitute specific offences under the Bangladesh Penal Code 1860, including, among others, of hurt or grievous hurt or confinement under Sections 319, 320 and 340. [Section 34 of the Children Act, 1974]²

2 Section 34, Children Act:

Penalty for cruelty to child.-If any person over the age of sixteen years, who has the custody, charge or care of any child assaults, ill-treats, neglects, abandons or exposes such child or causes such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child unnecessary suffering or injury to his health, including loss of sight or hearing or injury to limb or organ of the body and any mental derangement, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand or with both.

The National Education Policy 2010 expressly addresses ²⁷ disabled children, providing for accessibility of all schools to disabled children including necessary facilities such as separate toilets/washrooms (Clause 21), that the needs/problems of a disabled child must be dealt with on a priority basis (Clause 22) and that one teacher from every school/PTI should receive skills training to communicate with a child with special needs (Clause 23).

The National Children Policy 2011 ²⁸ provides for a Special Education System for students unable to gain entry into the mainstream education due to unavoidable circumstances (Clause 6.8.3) and requires appropriate institutional activity to be taken and for accessibility of all infrastructure, services and facilities (Clauses 6.8.4 and 6.8.6). It also provides for special programmes for Autistic children (Section 6.9).

The National Plan of Action NPA-II (2003-2015) ²⁹ proposes that all disabled and disadvantaged children aged 6-10 years shall be enrolled and complete the primary cycle and achieve quality education by the year 2015 (Clauses 5.A and 5.1).

The National ICT Policy 2009, ³⁰ developed by the Ministry of Science and Information and Communication Technology, refers equitable participation in nation- building through access to ICT for all including PWDs. [Section D. 1]. It also aims to ensure use of ICT tools to provide access to education and research for persons with disabilities and special needs (Section E 4.8).

The Sixth Five Year Plan FY 2011- FY2015 ³¹ by the General Economics Division, Planning Commission, Ministry of Planning, provides for enabling and integrating PWDs in all spheres of society and includes provisions for stipend programmes, subsistence allowance and skill training for PWDs in its strategy plan.

Moreover, **circulars circulated by the Director, Directorate of primacy and mass education (dated 21.04.2008, 18.03.2010 & 23.08.2010)** ³² to ensure the appropriate manners and attitude towards the children student. It was directed to the school managing committee to inform all concern in the Government and non-Government primary school to prevent corporal punishment as well as to keep away from all sorts of corporal punishment in the school as it has very severe impacts on child's development and growth. It was also requested that all concerns should work on building awareness against corporal punishment.

²⁶ Rights and Protections of Persons with Disabilities Act 2013. Website: <http://bdlaws.minlaw.gov.bd/>

²⁷ National Education Policy 2010. Website: http://www.moedu.gov.bd/index.php?option=com_content&task=view&id=338&Itemid=416

²⁸ National Children Policy, 2011. Website: http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/7c672d20_d211_48cb_8e6b_702f21c799c5/National-Child-Policy-2011-English-04.12.2012.pdf

²⁹ http://old.mopme.gov.bd/index.php?option=com_content&task=view&id=451&Itemid=471

³⁰ <http://www.bcs.org.bd/img/upload/page/11.pdf>

³¹ http://www.plancomm.gov.bd/wp-content/uploads/2013/09/SFYP_Part-2.pdf

³² http://www.supremecourt.gov.bd/web/documents/297208_WP%20No.5684%20of%202010%20_C.Punishment_-final.pdf

Exam facilities for the students with disabilities: exam duration for examinees with disabilities by one hour, and more for students with cerebral palsy. Furthermore, only blind students can use the services of a writer and the process they have to go through with the Board is extremely cumbersome and time consuming.

F) Right to Health Services of Persons with Disability

Under Article 25 of the CRPD, the state has an obligation to establish PWDs' right to have access to the highest attainable standard of health without discrimination. Its duties also include taking appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.

Laws and Policies Promoting Disability Rights

The Disability Rights Act establishes the right of PWDs to live in a healthy environment. It states that depending on the type of disability, quality medical services and health care facilities must be provided to PWDs.³³ It prohibits discrimination against PWDs; and also empowers them to make complaints to the District Committee against any discrimination faced while availing health care services and to claim compensation.³⁴

The Act addresses aspects of food security and nutrition for disabled children and adults. It requires the state to take preventive measures to lower the risk of factors responsible for causing disabilities among children and women and to reduce their medical expenses.³⁵

It also calls for use of accessible modes of communication in all hospitals and medical institutions including sign language interpretation or employment of speech language therapists where deemed necessary.³⁶

Under the Act all aspects of accessibility and mobility is to be ensured for PWDs in medical and health care institutions.³⁷

Lastly, Schedule 11(kha) of the Act specifies that the State should encourage insurance companies to set up separate insurance for disabled PWDs to increase their social security.

Under the National Health Policy 2011, the State is committed to providing unrestricted access to health care services and other medical services without discrimination³⁸ and to raise widespread awareness on nutrition, health hazards, and available health care services to ensure a healthy and balanced lifestyle for PWDs. It also provides that free healthcare and services shall be provided for the poor and the disadvantaged members of the society, which especially benefits financially disadvantaged PWDs.³⁹

The Sixth Five Year Plan FY 2011 – FY 2015 requires that relevant authorities shall make early detection of symptoms of disability, primary medical rehabilitation, undertake a nutrition programme for pregnant women, appoint trainee doctors, nurses and other caregivers to deal with disability issues and introduce support services for use of assistive devices and equipment at health centers.⁴⁰

The National Food Policy 2006 expressly refers to achieving food security for all including PWDs (Strategy 2.3.1).

The National ICT Policy 2009 refers to ensuring quality healthcare to all citizens by innovative application of ICT (Clause D. 7) and improving management of healthcare delivery system using telemedicine and modern technologies benefitting PWDs in the long run. It also refers to the goals of improved community awareness, access to health care facilities, and quality assurance of health care services and enhancement of the capacity of the National Health Service delivery system (Clause E.7.1 – E7.4).

G) Work and Employment for the Persons with Disability

Under Article 27 of the CRPD, the State is obligated to:

- Recognize the right of PWDs to equal opportunities to work including to work freely and be accepted in a labour market and work environment that is open, inclusive and accessible to PWDs.
- Safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment.
- Enable persons with disabilities to form trade unions and have effective access to general technical and vocational guidance programmes, placement services, career advancement options, vocational and continuing training; opportunities for self-employment and entrepreneurship.⁴¹

Laws and Policies Promoting Disability Rights

The Disability Act provides for the right to employment in all government and non-governmental organizations and to benefits, pensions, maternity payment, compensation packages and other facilities in the event of a PWD not being able to continue employment, and prohibiting discrimination.⁴² No such organization can refuse employment to a disabled person on the basis of discrimination,⁴³ or as long as that person has the capacity to perform in that position⁴⁴

³³ Section 16, Rights and Protection of Persons with Disabilities Act, 2013.

³⁴ Section 36, Rights and Protection of Persons with Disabilities Act, 2013.

³⁵ Schedule 3, Rights and Protection of Persons with Disabilities Act, 2013

³⁶ Schedule 4, Rights and Protection of Persons with Disabilities Act, 2013.

³⁷ Schedule 11, Rights and Protection of Persons with Disabilities Act 2013.

³⁸ Clause 1 of the Main Policy section, Ministry of Health and Family Welfare, Health Policy 2011:file:///C:/Users/ASUS/Downloads/Health%20Policy%202011%20(1).pdf

³⁹ Clause 20, Methodology Section, Ministry of Health and Family Welfare, Health Policy 2011 : file:///C:/Users/ASUS/Downloads/Health%20Policy%202011%20(1).pdf

⁴⁰ Ministry of Planning Commission. Website: http://www.plancomm.gov.bd/wp-content/uploads/2013/09/SFYP_Part-2.pdf

⁴¹ Article 27 (Work and Employment): <http://www.un.org/disabilities/default.asp?id=287>

⁴² Section 16, Protection of the Rights of Persons with Disabilities Act, 2013.

⁴³ Section 16 (2), Protection of the Rights of Persons with Disabilities Act, 2013.

The Act sets out the duty of public and private organizations to identify positions within their organization suitable for an employee with disabilities; the duty to ensure employment and sole business opportunities, provide banking and commercial services on a priority basis and provide easy access to small loans and start up loans.⁴⁵

The Act establishes a National Disabled Welfare Coordination Committee and empowers it to create employment opportunities and maintain quotas in the public sector for persons with disabilities and for orphans in selected grades of public sector jobs.⁴⁶

The Government has increased the age limit for disabled candidates wishing to apply for a government job to 32 years⁴⁷

H) Participation in Political and Public Life for the Persons with Disability

Article 29 of the UNCRPD requires that persons with disabilities face no barriers to be elected or to vote and ensures:

- a) Participation in political and public life on an equal basis with others.
- b) Right and opportunities for PWDs to vote and be elected.
- c) Formation of community organizations and associations, such as political parties and organizations of PWDs.

Promote an environment where PWDs can effectively and fully participate in the conduct of public affairs, without discrimination.⁴⁸

Laws and Policies Promoting Disability Rights

The Disability Rights 2013 clarifies the right of persons with disabilities to be registered as voters, the right to vote and the right to take part in elections.⁴⁹ It prohibits the denial of such rights on the basis of discrimination or discriminatory behaviour by any individual, organization, group or authority.⁵⁰

Schedule 16 of the Act requires the State to make reasonable arrangements and give encouragement to PWDs and help them to develop their leadership capability (at a national, divisional and district level); to provide financial and other support and assistance to enable people with disabilities to set up their own groups, unions and to provide help with developing their group/union related decision making abilities.⁵¹

Section 36 of the Act entitles a disabled person who has been aggrieved by the denial of the above rights due to discrimination to make a complaint to the District Committee (what is this?).⁵² If a PWD is refused a National ID or registration in the electoral roll, then s/he may challenge the refusal within 30 days.⁵³

Apart from the Constitution of Bangladesh, the **Representation of the People Order, 1972** lays out the functions of the Election Commission. Section 31 (7) of the Act states that “where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of a companion”, the Presiding Officer shall provide assistance.

RECOMMENDATIONS

Based on the review of Literatures the recommendations of the study are as follows:

1. Section 1 of the 2013 should be amended or should initiate an official publication of a gazette notifying that the 2013 Act prevails over any other laws affecting persons with disabilities.
2. An official gazette should be issued to activate the rights of persons with disabilities under Section 31 and 36.
3. The prompt establishment of the Committees should be initiated under the Act.
4. Section 34 2013 Act should be implemented to overcome physical barriers and issue a government order designating RAJUK, respective Unnayan Kartipakkha (Development Authority) of all other Municipality Corporations and the Code Enforcing Agency (Authority) for enforcement of the National Building and Construction Codes.
5. ‘Reasonable accommodation’ should be provided under Section 2(14) of the 2013 Act in the light of Article 2 of the CRPD that encapsulates reach, entry, circulation and use.
6. BRTA (Bangladesh Road Transport Authority) should issue a circular necessitating that all drivers/conductors in public transport assist disabled persons to board vehicles.
7. Ministry of Social Welfare should take steps to amend Section 14 of the Copyright Act 2000 to include an exemption clause for printing of all books, publications etc in an accessible format (braille, audio etc) for PWDs.
8. Ministry of Social Welfare should implement guidelines in the RTI Act 2009 and the National ICT Policy 2009 to ensure accessibility of information and make IT policies disability inclusive.
9. Ministry of Social Welfare should increase amount allocated in the Service Innovation Fund (SIF) under the Government’s Access to Information Programme to enable State-led technological advancements to make information and communication accessible for PWDs.

⁴⁴ Section 35 (1), Protection of rights of Persons with Disabilities Act, 2013.

⁴⁵ Part 10, Schedule, Protection of Rights of Persons with Disabilities Act, 2013.

⁴⁶ The Daily Star, (2013). Livelihoods for disabled people: Opportunities and challenges. [online] Available at: <http://archive.thedailystar.net/beta2/news/livelihoods-for-disabled-people-opportunities-and-challenges-2/> [Accessed 18 Jan. 2015].

⁴⁷ Bangladesh Public Service Commission. Website: <http://www.bpsc.gov.bd/platform/node/61.bpsc2012.pml>

⁴⁸ Article 29, Participation in political and public life: <http://www.un.org/disabilities/default.asp?id=289>

⁴⁹ Section 16, Rights and Protection of Persons with Disabilities Act, 2013.

⁵⁰ Section 16 and Section 36, Rights and Protection of Persons with Disabilities Act, 2013.

⁵¹ Schedule 16, Rights and Protection of Persons with Disabilities Act, 2013.

⁵² Section 36(2), Rights and Protection of Persons with Disabilities Act, 2013.

⁵³ Section 31, Rights and Protection of Persons with Disabilities Act, 2013.

10. Ministry of Social Welfare should develop more institutes for development and training on sign language for trainers, interpreters and teachers pursuant to Articles 9 (2) (e) (g) (h), and 21(b).
11. Government should play a stronger role to protect victims and witnesses, ensure participation of disabled people in trials.
12. Government should implement the *Jatiyo Ain Shahayota Nitimala*, 2000 enabling PWDs to have access to free legal aid and services.
13. Government should protect Inheritance Rights by amending Section 1 of the 2013 Disability Rights Act and stating that it overrides any other laws, to prevent PWDs (especially those with intellectual disabilities) from being denied inheritance rights through the application of discriminatory personal laws.
14. State/CSO/NGOs/DPOs should conduct national level public awareness activities about disabled people's rights to access to justice (especially on Legal Aid Act 2000; offences and punishment under the Penal Code, the Domestic Violence (Prevention and Protection) Act, 2010) and the scope for their use by all including PWDs.
15. Ministry of Law and Parliamentary Affairs should dispose of cases involving persons with disabilities quicker by implementing the various provisions related to summon, adjournment etc contained in the Criminal Procedural Rules and the Code of Civil Procedure of Bangladesh.
16. Ministry of Law and Parliamentary Affairs should build capacity of justice sector officials by incorporating disability issues in the training module for police, prison officials etc and in the Bar Council's 'Canons of Professional Conduct and Etiquette' for practicing lawyers and implement rules and guidelines set out in the Bench book for Judges and Magistrates.
17. Government should maintain official statistics on literacy, employed disabled women, health related data to gauge the extent of input required to improve the life of PWDs.
18. Government should implement Schedule 12 of the 2013 Act to enable better treatment of women and girls with disabilities in the justice system (especially victims of domestic violence) in the Victim Support Centers/Police Stations/ Courtrooms.
19. Government should reform existing personal laws and the discriminatory provisions contained therein especially the ones related to financial entitlements of PWDs.
20. Ministry of Health and Family Welfare should disseminate information related to reproductive and sexual health of disabled women. The National Health Policies under the Ministry of Health and Family Welfare must include disabled women in the State led mainstream health development projects.
21. Ministry of Social Welfare should provided benefits and facilities under the National Policy must be monitored so that it reaches disabled women in the community level and the budget for the Social Safety Net Programme needs incremental change as it currently pays out a minimal monthly amount to persons with disabilities.
22. Government should implement existing laws and address problems related to child marriage, dowry etc by implementing the Dowry Prevention Act, 1980 and thereby prevent the taking of dowry in marriages and implement the Muslim Family Laws Ordinance, 1961. Implementation of the Majority Act, 1857 and The Child Marriage Restraint Act, 1929 is also required to prevent child marriages.
23. Government should establish more DNA labs (for evidence related to disabled victims of rape).
24. Government should implement the Legal Aid Services Act 2000 and the *Jatiyo Ain Shahayota Nitimala*, 2000 and adopt rules to prevent imposition of extra-legal penalties on PWDs through *shalish* (traditional dispute resolution).
25. Government should amend Section 118 of the Evidence Act, 1872 as it currently prevents persons with intellectual disabilities from giving evidence. Implementation of Schedule 12 of the Disability Rights Act will enable such PWDs to present their evidence in a more disabled friendly court environment.
26. Government should engage audio and use of Braille in hospitals and where necessary engage a sign language interpreter.
27. Ministry of Health and Family Welfare in Collaboration with the Ministry of Social Welfare should monitor access of poor patients with disabilities to free healthcare.
28. Ministry of Health and Family Welfare in Collaboration with the Ministry of Social Welfare should provide specialized training to doctors, hospital employees, ward boys, employees and nurses on treating people with disabilities to build empathetic behaviour and positive attitudes.
29. Government/CSOs/NGOs/DPOs should undertake extensive awareness programmes about extra care to be taken to prevent disability at birth and in the event of an accident (especially a spinal cord injury) among medical professionals.
30. Government/CSOs/NGOs/DPOs should undertake extensive awareness programmes about the existence of district health centers and entitlements of PWDs under national policies.
31. Government/CSOs/NGOs/DPOs should undertake extensive awareness programmes about disseminate information on nutrition, health risks, diseases and preventive behaviors among disabled people and of their right to access health care services.
32. Ministry of Social Welfare in collaboration with the Ministry of Education should ensure that PWDs are beneficiaries of mainstream developments in education.
33. Ministry of Social Welfare in collaboration with the Ministry of Education should remove physical barriers in schools, universities and other educational institutions.
34. Ministry of Social Welfare in collaboration with the Ministry of Education should increase budget allocation for disabled students to enable print and dissemination of accessible educational materials (audio and video),
35. Ministry of Social Welfare in collaboration with the Ministry of Education should relax the age limit for admission of adult students with disabilities into institutes offering higher education, increase exam duration for examinees with disabilities by one hour, and more for students with cerebral palsy.
36. Ministry of Social Welfare in collaboration with the Ministry of Education should include disability issues in the training curriculum and thereby provide training to teachers, academics and employees of educational institutions on needs of disabled students.
37. Government should amendment of Section 21 of the Labour Act 2006 applying to workers who become disabled due to workplace injuries to:
 - a) Increase compensation package for such workers.
 - b) Rehabilitate them through training adapted to their capability or
 - c) Provide alternative employment for them.

38. Government should amend Schedule III of the BCS and JSC rules to remove discrimination related to employment of PWDs in the public sector and in the judiciary.
39. Government should increase employment opportunities for disabled people through :
40. Free/ subsidized training (technical and vocational) in government and private sector organizations.
41. Access to loans on easy terms through PKSf, SME Foundation state etc and private owned banks to facilitate small business /entrepreneurship among PWDs.
42. Government should amendment of Art. 122 of the Constitution to allow persons with intellectual disabilities to vote.
43. Government should amendment of Art. 65 (3) of the Constitution to include a certain number of seats to be reserved for people with disabilities.
44. Election Commission under the Ministry of Planning should record statistics on the number of disabled people voting in every general election
45. Election Commission under the Ministry of Planning should maintain the accuracy of data on the nature of disability in National ID cards and the voter registration form.

