



## RIGHTS WATCH

# Upholding the human rights of domestic workers

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Among others, one of the driving principles behind the liberation of Bangladesh was to establish a country free from discrimination and exploitation on the basis of race, religion, sex, colour etc. The provisions embodied in the Constitution reflect this vision through its provisions on fundamental rights and by providing redress to court for protection of fundamental rights.

The Constitution, under Article 34, provides that all forms of forced labour are prohibited. While the Constitution does not provide the definition of the term forced labour; Article 2 of the Forced Labour Convention, 1930 defines forced or compulsory labour as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. Forced labour is involved when a man is obliged to work at wages below the minimum wage (*Sanjit vs Rajasthan* AIR 1983 SC 328). Employing labour for a remuneration less than the statutory minimum wages exploiting the hunger and poverty of worker may also be considered as forced labour (*People's Union vs India* AIR 1982 SC 1473). However, because of poverty, children on this sub-continent are still required to work rather than finish their education, especially female adolescents who are employed as domestic servants or almost anything else because of their circumstances. Forced labour can be practiced in the domestic work sector if there lacks proper legal framework.

For regulating the relationship between

workers and employers, rights and duties of both parties and for regulating the child labour, Bangladesh has a special law titled as the Labour Act, 2006. Child labour is forbidden by Section 34 of the Act. Sections 100 and 108 specify that a labourer's daily working hours should not exceed 8 hours and 10 hours, including overtime, respectively. Other chapters of the aforementioned Act deal with welfare measures, provisions for health, hygiene, and safety, wages and payment, trade unions, their participation in company earnings, provident funds, and so on. Unfortunately, section 1 of the Act expressly excludes domestic workers from its coverage. As a result, domestic workers, including domestic child workers, have no rights under this Act.

According to the Domestic Workers Protection and Welfare Policy, 2015 domestic work refers to assisting in cooking and cooking related ancillary work, shopping, keeping the courtyard clean, and other household chores that are generally considered household chores. A domestic worker is a person who performs household chores in the employer's house, either verbally or in writing, on a part-time or full-time employment basis.

According to the Domestic Workers Protection and Welfare Policy, 2015, no children under the age of 12 can be employed as domestic workers in any household, and child domestic workers cannot be engaged in heavy or risky work. But none of these provisions are being fully applied. The 2015 policy simply provides some guidelines that are not legally binding. Domestic

child workers in Bangladesh are frequently subjected to physical and mental abuse. There is no direct and explicit statute providing legal mechanisms for domestic employees' rights and welfare, let alone domestic child workers.

By exempting domestic workers from the application of the Labour Act of 2006, they are denied the legal right to organise a labour union, to demand and negotiate with their employers about their working hours, salaries, leave, and so on. This undermines their constitutional right to freedom of association. Furthermore, the lack of express regulation for them provides the employer the power to treat them in the manner as they deem fit, infringing their fundamental right to be treated only in accordance with the law under Article 31.

Domestic workers are one of Bangladesh's most neglected and impoverished populations. They are frequently looked down upon, mistreated, abused, and neglected by legislation, with their job classified as 'informal' in labour statistics and in terms of obtaining social rights. The High Court Division held that it is high time that the work done in the domestic sector is recognised as such and the rights of these workers ensured by including the workers of the domestic sector within the definition of 'worker' in the Labour Act, 2006 (*BNWLA vs The Cabinet Division*, 31 BLD 265). For upholding the Constitutional rights of the domestic workers, it is necessary that they should be included in the Labour Act, 2006

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## FOR YOUR INFORMATION

## Steps involved in registering copyright

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Copyright refers to a bulk of exclusive rights of the author or creator of any literature, dramatic, artistic, and musical works, cinematographic and different recordings, etc. Copyright can be identified with the help of the copyright sign, 'C' enclosed in a circle. To protect the rights of copyright in Bangladesh introduced by the Copyright Act 2000, the following steps are to be followed in order to register copyright.

**Filing application for registration**

The process of registration is initiated by filing an application to the office of Copyright. Due to the digitalisation of the copyright process, creators or authors can submit their registration applications online by themselves without any kind of hassle.

**Examination of copyright work**

Upon application, the Copyright examiner shall call the owner of the work to examine the authenticity of the copyrighted work. It is the responsibility of the owner of the work to prove the authenticity of their copyright works. The Copyright examiner shall justify the statements of the owner with the documents provided to them for copyright.

**Issuance of copyright certificate**

Finally, upon the satisfaction of the examiner and registrar concerning the copyright works, the registrar would send the file for further process of certification. A certificate is issued as proof



of registration of the particular work in the Copyright Office. The Registrar is also empowered to mend "clerical errors or obvious mistakes" even after the issuance of the certificate as per section 58. The whole process shall take almost 45-60 days if there are no difficulties found in the copyright works. The Certificate of Copyright shall be issued within the stipulated timeframe.

**Term of registration**

The initial registration subsists for sixty (60) years from the date of registration of the copyright. Chapter five of the Copyright Act 2000 clearly mentioned the term of registration for the copyright of different works.

**Remedies against infringement**

Chapter 14 and 15 of the Copyright Act 2000 has identified three types of remedies against the violation of the copyright. Firstly, the owner may seek civil remedy in the form of damages or injunction to protect the right by filing a civil suit. Secondly, if anyone has committed any offence under this Act, criminal proceedings can be initiated against them. Finally, the administrative remedy by which the victim may ask for a remedy against the registrar of copyright under section 74 of the said Act.

Although registration of copyright is not a mandatory process for enjoying or enforcing the copyright in case of any violation, it is useful to prove the *prima facie* evidence of becoming the owner of an intellectual work.

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## LAW OPINION

# Legal consequences of NGO registration

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NGOs have been proliferating at both national and international levels because of their role in formulating and shaping the policy of a state as well as their humanitarian contributions through aid and other services. Bangladesh, being no exception to that, has also been swayed by the massive expansion of NGOs. According to the NGO Affairs Bureau of Bangladesh, as of 2020, a total of 2543 NGOs are currently operating in Bangladesh comprising of both local and international NGOs. However, an automatic functioning of an NGO-like entity does not lead to the attaining the status of an NGO in Bangladesh. It is also important that such an entity is duly registered. In this regard, Foreign Donations (Voluntary Activities) Regulations Act, 2016 (FDRA) is the primary legal instrument detailing the process for the registration of an NGO.

The FDRA defines NGOs, be they national or international, as organisations which carry out voluntary activities and are registered under the FDRA. Here, "voluntary activities" include non-profit social, religious, and educational activities as well as activities related to democracy and good governance, human rights, and

gender equality, among others. However, for the purpose of registration, according to section 4 of the Act, both international and national NGOs are required to submit an application to the Director General of the NGO Affairs Bureau and that also involves the payment of prescribed fees. In this regard, there are some particulars that

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must be mentioned during the application process. An application for an NGO registration must contain, inter alia, "the source of foreign donation", if there is any, the source that indicates its availability, and the utilisation of the fund. If the information so provided in the application seem to be correct, the Director General will issue a registration certificate for



the concerned NGO which would be valid for an initial period of 10 years. It is worth mentioning that granting such a registration certificate is nevertheless subject to the opinion of the Ministry of Home Affairs and the Bank and Financial Institution department of the Ministry of Finance of Bangladesh.

However, the renewal of an NGO in every 10 years would be dependent on whether such an NGO has been able to carry out their tasks successfully for the licensed term and whether the information included in the application submitted six months before the expiration of 10 years period for renewal is correct. Once satisfied, the Director General will approve a renewal certificate for further 10 years. The registration certificate of an NGO, however, can be cancelled or postponed, if there is an offence committed by an NGO. Section 14 of the Act stipulates that slanderous remarks against the Constitution or any constitutional institutions of Bangladesh, patronising or financing terrorist activities and human trafficking of children and women are usually the offences for which the registration of an NGO may be cancelled. Besides, the Director General may take any necessary actions to make the NGO accountable

and in some cases, may provide a warning asking the NGO to be rectified within a certain period of time. Furthermore, as section 16 of the Act provides, in the case of cancellation of registration of an NGO, the Director General with prior approval of the Government can transfer the assets of the NGO either to the concerned foreign donor or to the government and can also appoint an administrator who will help wind up the NGO and conduct litigation process, among others. But, any NGO or person who is dissatisfied with a decision made by the Bureau may file an appeal within 30 (thirty) working days of the decision with the Secretary of the Prime Minister's Office who is considered the appellate authority in this regard.

It can be said that an NGO being registered under the FDRA act means that it is acting within the law. As a consequence, it ensures good functioning, and better professional regulation of an NGO in which the public can have confidence. Hence, it is important that each NGO operating in Bangladesh is registered and act within the periphery of laws.

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