



**Public Policy Formulation:
A Case Study of
Domestic Workers in Bangladesh**

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Abstract

On 21 December 2015, the Bangladesh government approved the Domestic Workers' Protection and Welfare Policy (DWPWP) 2015, the adoption of which offers an interesting case study through which to understand how public policy is formulated in Bangladesh. This paper employs a process-tracing methodology to explore the evolution of the DWPWP 2015. Drawing on elite interviews and documentary research, it identifies the stakeholders who were involved in formulating the policy and the role they played in support of or in opposition to it. It then employs the 3-i framework to explain which institutions, ideas and interests influenced the stakeholders. Findings from this research generate useful policy lessons pertaining to the strength of national trade unions and NGOs, the dominant role of the Ministry of Labour and Employment (henceforth MLE), incremental policy progress and concerns over international migrant workers.

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Abbreviations and Acronyms

| | |
|-------|---|
| 3-i | Institutions, Ideas, and Interests (a theoretical framework) |
| ASK | Ain O Shalish Kendra |
| BEF | Bangladesh Employers Federation |
| BILS | Bangladesh Institute of Labour Studies |
| BLAST | Bangladesh Legal Aid Services and Trust |
| BNWLA | Bangladesh National Women Lawyers' Association |
| BOMSA | Bangladesh Oribashi Mohila Sramik Association |
| CDWs | Child Domestic Workers |
| DFID | UK Department for International Development |
| DWPWP | Domestic Workers Protection and Welfare Policy |
| DWRN | Domestic Workers' Rights Network |
| ILO | International Labour Organization |
| INGOs | International non-governmental organisations |
| IOs | International organisations |
| MJF | Manusher Jonno Foundation |
| MP | Member of Parliament |
| MLE | Ministry of Labour and Employment |
| NDWWU | National Domestic Women Workers Union |
| NGOs | Non-governmental organisations |
| NM | Nari Maitree [Women's Solidarity] |
| NU | Nagorik Udyog [Citizen's Initiative] |
| RMMRU | Refugee and Migratory Movements Research Unit |
| SEWA | Self-Employed Women's Association [of India] |
| SKOP | Sramik Karmachari Oikya Parisad [United Front of Workers and Employees] |
| STC | Save the Children |
| TCC | Tripartite Consultative Council |
| UN | United Nations |

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Executive Summary

On 21 December 2015, the Bangladesh government approved the Domestic Workers' Protection and Welfare Policy (DWPWP) 2015. The adoption of this policy is seen by many as a milestone in achieving legal recognition for those in domestic service. The DWPWP has 16 provisions, with clearly specified responsibilities for the employers, the workers and the government. This study is exploratory in nature and offers a first comprehensive account of domestic worker policy development in Bangladesh. It poses three central questions:

1. How did the DWPWP evolve, leading to its adoption in 2015?
2. Which stakeholders were involved and what positions did they take in the domestic workers policy process?
3. Which institutions, ideas and interests shaped the stakeholder positions and the course of the policy development?

We employed the '3-i' framework and process-tracing methodology when addressing the research questions. We also relied on two sources of data: (i) key informant interviews with 15 stakeholders and (ii) a review of archival documents. Our study goals and final report were validated through an inception workshop in 2015 and a dissemination meeting in 2016. The central findings of our study are presented below.

Evolution of the Domestic Workers' Policy

Although a national NGO, Surovi, started working for domestic workers rights in the 1970s, and a self-help group, the National Domestic Women Workers Union (NDWWU), was founded in 2000, a sustained movement for the state recognition of domestic service did not originate in Bangladesh until December 2006, when the Domestic Workers Rights Network (DWRN) was formed in response to the exclusion of domestic caregivers from coverage by the Labour Act 2006. Later, the Bangladesh Employers Federation (BEF), a coalition of private-sector businesses, joined the policy dialogue to represent the employers' interests.

The DWPWP 2015 progressed in several stages. Initially, the pro-workers' coalition, the DWRN, wanted an amendment to labour law. The MLE convinced the DWRN that a draft policy would be a first step. A Code of Conduct was produced in 2008 by the DWRN in consultation with various stakeholders. The code was later revised and renamed the Domestic Workers' Protection and Welfare Policy (DWPWP) 2010. The 2010 draft was stalled for four years, until 2014, when it was moved to the Inter-Ministerial Consultation for vetting purposes. After receiving comments from the ministries concerned, the MLE sent the draft policy to a core committee of the Tripartite Consultation Council (TCC) in 2015. The TCC core committee, representing the government, private sector and trade unions, produced a consensus document which was approved by the Cabinet in December 2015.

Stakeholder Analysis

Two competing advocacy coalitions –the DWRN and the BEF – participated in the policy dialogue. First, the DWRN represented more than two dozen organisations, including trade-union federations and rights-based and women-focused NGOs. The Bangladesh Institute of

Labour Studies or BILS, an advocacy group of national trade unions in Bangladesh, acted as the secretariat of the DWRN. The DWRN wanted a comprehensive policy to prevent the exploitation of domestic workers and to promote their labour rights. Second, the BEF wanted a steady flow of domestic workers without any additional costs for the employers. As the lead ministry, the MLE controlled the policy process. Given the fact that officials there and in the other ministries involved are themselves also employers of domestic workers, the private interests of bureaucrats were more aligned with the position taken by the BEF.

Relevance of the 3-i Framework

Institutions. The MLE was the most powerful institution, and controlled the course of the policy development by inviting multiple stakeholders and adopting a ‘go-slow’ strategy. The Parliamentary Standing Committee of the MLE contributed to the drafting of the policy, but its influence was limited due to what an elected lawmaker termed ‘bureaucratic resistance’. International organisations, including the ILO and UNICEF, created international norms and ideas which influenced the DWRN’s advocacy campaigns. However, such influence had partial effects as well. In 2011 the Bangladesh High Court, in response to a public interest litigation filed by a rights-based NGO, issued a 10-point directive prohibiting the recruitment of child domestic workers and implementing the draft DWPWP. While the High Court’s directive turned the tide in favour of the DWRN, the MLE was still able to buy time by stalling the policy process.

Ideas. The DWRN advanced the idea that a broader national policy should include both the human and the labour rights of domestic workers. The BEF agreed with the human rights agenda but opposed the latter, claiming that much of the proposed labour rights-related provision – including registration, a minimum wage and education provision – was simply unrealistic. The pro-workers’ coalition – the DWRN – relied on a wide variety of sources such as baseline surveys, media reports and expert opinions to generate its ideas. By contrast, BEF delegates and bureaucrats in the MLE tended to rely more on anecdotal evidence to substantiate their position.

Interests. There was a clear difference between the interests of the various stakeholders. The trade unions wanted to expand their ability to organise informal-sector workers, whereas the NGOs wanted to scale up their advocacy campaign through a national policy. Both also looked into the prospect of donor funds to continue their programmes on domestic caregivers – such as awareness campaigns, action research and protests against abuse. BEF delegates wanted to ensure that middle-class employers would not suffer from any provisions that imposed additional financial burdens on them. The final policy document, the DWPWP 2015, is seen to promote the interests of both coalitions. Trade unions and NGOs see it as an instrument which will boost their advocacy campaign and take their movement for labour-law amendment to a new level. However, the BEF also managed to minimise the financial burden by successfully blocking any attempt to set up a minimum wage, fixed working hours or employers’ educational responsibility for domestic workers.

Several policy lessons can be drawn from the study. First, the domestic workers advocacy coalition shows the strength of national trade unions and NGOs. Second, despite pressure from the Parliamentary Standing Committee and a High Court directive, the MLE controlled

the policy process. Third, the Ministry adopted a go-slow strategy in formulating the DWPWP. Finally, although Bangladeshi-origin domestic workers employed in foreign countries are not included in the current policy, concerns over the rights of such international migrants played an important role in the final stage of policy formulation. In conclusion, the history of the Domestic Workers' Protection and Welfare Policy 2015 provides a useful basis for understanding policy-making dynamics in Bangladesh.

Introduction

In December 2015, the Bangladesh government approved the Domestic Workers' Protection and Welfare Policy (DWPWP). The DWPWP 2015 has 16 provisions with clearly defined responsibilities for the employers, the workers and the government (MLE 2015; *The Daily Star* 2015). It addresses the needs of the more than 2 million people, mostly women and children, who are employed as domestic workers in Bangladesh, a large majority of whom have migrated out of poverty from the rural to urban areas and adopted this profession as a livelihood strategy (BILS 2015). Although Bangladesh is also a source country for international migrant domestic workers, the DWPWP 2015 does not cover them (see Appendix 1).

Civil society in Bangladesh sees the approval of the domestic workers' policy as a stepping stone towards the amendment of the labour law, the demand for which stems from the fact that the Bangladesh Labour Act 2006 excludes the category of domestic work from the purview of the Act (Ministry of Law 2006). Although the pre-independence Domestic Servants Registration Act 1961 is the only relevant law, it is only applicable in metropolitan Dhaka City, where domestic workers are required to enrol at the nearest police station (ASK and STC 2010: 10). Other general laws, such as the Penal Code, the Code of Criminal Procedure and the law against the repression of women and children, may address some of the issues related to domestic workers, but they are rarely enforced to protect their rights (BILS 2015: 8).

Concerns about the rights of domestic workers were first voiced in Bangladesh in the late 1970s, when the NGO Surovi started schooling programmes for underprivileged children and child domestic workers. The National Domestic Women Workers Union (NDWWU) was founded in 2000 as a self-help group of female domestics (Nahar and Roni 2013: 61; NDWWU 2014). Although various organisations have worked on the issue of domestic workers, with the overlapping agenda of women, children and informal-sector workers, for more than three decades, the need for a national policy gained greater ascendancy only in 2006, after the Labour Act excluded domestic workers from its coverage (Ahmmed and Yesmin 2011; BILS 2006; Hossain 2006; Jahan 1991; UNICEF 1999).

This study explores how the domestic workers policy process evolved in Bangladesh. It concentrates on the history of policy development from the exclusion of domestic workers in 2006 to the adoption of the DWPWP 2015. During this period, the Domestic Workers Rights Network (DWRN) emerged as an advocacy coalition of NGOs and trade unions and began to press for a broader policy that includes both human and labour rights. In contrast, the Bangladesh Employers Federation (BEF) joined the policy dialogue by agreeing on the human rights agenda but consistently argued that the inclusion of labour rights-related provisions in a national policy would be unrealistic. The DWPWP 2015 looks sharply different from its earliest draft – the Code of Conduct for the Protection and Welfare of Domestic Workers 2008 (Appendix 2) and a framework amendment to the labour law (Appendix 3) – which were produced in 2008 and later amended many times at various stages of the policy formulation process.

This study asks three central questions:

1. How did the DWPWP evolve, leading to its adoption in 2015?

2. Which stakeholders were involved and what positions did they take in the domestic workers policy process?
3. Which institutions, ideas and interests shaped the stakeholder positions and the course of the policy development?

There are compelling reasons for studying the policy formulation process in general and the domestic workers issue in particular. The policy process involves a wide variety of actors and it is important to understand which factors shape their respective positions (Ripley 1985). The domestic workers issue is particularly interesting since it offers an opportunity to see how rights-based NGOs merged with the trade unions to build a robust advocacy coalition and thus put pressure on the government in their quest for a national policy. Since the issue is fairly recent, and mapping its key stakeholders and their position at various stages of the policy formulation is feasible, it merits closer examination.

An analysis of the stakeholders' institutions, ideas and interests would also shed light on why some policy actors were supportive of certain provisions in a draft policy while others were not, why the policy process was stalled and at what point. Such information would generate useful policy lessons for both academics and practitioners, and help concerned stakeholders in putting the newly approved DWPWP into practice.

There were several challenges to conducting the study. When the topic was chosen sometime in early 2014, we were under the impression that the policy process had stalled, with no clear sign of its progress. During our consultation with senior stakeholders involved in policy development, we would often receive contradictory messages about the future of the policy: optimists at the MLE would speak of the adoption of the policy after a few procedural steps, whereas DWRN leaders would express their pessimism about the long delay in obtaining government approval. We were almost caught off guard when we learnt, on the very same day, that the government had approved the DWPWP on 21 December 2015. Prior to that, there had been rumours that the policy would be approved by May Day or Human Rights Day 2015. The approval of the policy required that we obtain sufficient answers to explain why the policy process was stalled and how it was revived. With the availability of new official documents and access to several key policy actors, we were compelled to refine some of our questions and update them with newer information.

This paper is organised in six sections. The second section presents a literature review and describes our research methodology. The third section traces the evolution of the domestic workers policy process and offers a comparison between the DWPWP 2015 and its earlier drafts. The fourth describes the key stakeholders and their policy positions, while the fifth examines the relevance of the '3-i' framework in explaining the development of the policy. The concluding section summarises the research findings and sketches out some policy lessons.

Literature Review and Methodology

There are at least three streams of literature on domestic workers which offer useful data and analysis on a wide range of issues, including typology and employment conditions, legal status and the role of advocacy coalitions in policy reform.

Typology and Employment Conditions

The first stream of empirical work begins with a discussion of the typology of domestic workers on the basis of their national origin, gender, age and residential status. On national origin, it is widely held that, while international migrants occupy a sizable portion of the domestic workspace in North America, Western Europe, the Persian Gulf and South-East Asia, the greatest share of domestic service in Bangladesh and other developing countries is provided by native citizens who migrate out of poverty from rural to urban areas (ASK and STC 2010; Chodhuary *et al.* 2013; Constable 1997; Granada and Kerr 1998; ILO 2004; Jensen 2007; Thomas 2010). A study conducted by the BILS (2015: 35) found that 'The domestic workers generally come from poor rural areas to urban areas. A combination of push and pull factors influence rural girls and women to enter domestic work and to migrate from rural to more urbanized areas'. Another study, by ASK and STC (2010: 82) comes to a similar conclusion: 'Children and their families migrate to the urban areas due to their financial needs'.

On age and gender structures, a large body of literature has focused on the issue of child domestic workers or CDWs. The 1995–1996 Child Labour Survey of 10,000 participants in Dhaka and Chittagong found that girls aged 9–12 years represented 90 per cent of domestic workers (Selim 2009: 17). A more recent survey of 450 CDWs found that 93 per cent of them were aged between 6 and 12 years (ASK and STC 2010: 34). The most widely cited figure comes from a baseline survey by the ILO and UNICEF, which found that, in 2006, of the 2 million domestic workers in Bangladesh, 421,426 were CDWs – 'Of the CDWs, 78 percent are females and 94 percent work full time' (ILO 2006: xiv). In terms of their residential status, the domestic worker population is divided into two major groups: full-time or live-in caregivers and part-time or live-out workers (Romero 1988). Most of the domestic workers in Bangladesh tend to be full-time or live-in workers, who work long hours without any proper rest or recreational facilities (ASK and STC 2010: 16; BILS 2015: 52).

Since live-out domestic workers enjoy the freedom to leave the workplace, they are less vulnerable to human rights abuse. Between 2001 and 2008, domestic workers in Bangladesh were the victims of 640 reported incidents of torture and inhumane treatment, in which 305 workers were killed, 235 injured and another 77 raped (DWRN 2009: 1). This figure only represents a fraction of the total number of abusive incidents which do not get media coverage. A review of five court cases filed in 2005 on charges of domestic worker abuse suggests that, due to extreme poverty, most victims and their families prefer to settle their case by agreeing to a financial deal with the accused, thus avoiding the process of criminal prosecution (DWRN 2009: 2). A UNICEF (2010: 3) fact sheet also describes the sordid working conditions in which some CDWs operate:

Bangladesh's 421,000 child domestic workers (three-quarters are girls) face particular vulnerabilities because they work behind closed doors. Almost all child domestic workers work seven days a week and 90 per cent sleep at their employer's home, meaning that they are completely dependent on their employers and often have restrictions on their mobility and freedom. About 60 per cent report some kind of abuse during their work, such as scolding or slapping. Levels of exploitation are also extremely high, as indicated by the fact that more than half receive no wage at all (they instead receive benefits such as accommodation, food and clothing – further reinforcing dependency on their employer).

The Legal Status of Domestic Workers

A second body of literature focuses on the legal status of domestic workers. A close look at the 1961 Ordinance suggests that it does not accord any rights to domestic workers, 'nor does it determine the legal obligations and code of conduct of employers of domestic labourers' (Adam-Badr 2010: 7). Although it requires the self-registration of domestic workers at the local police station within 15 days of their employment, the ordinance is applicable, at least in theory, at only five police stations in metropolitan Dhaka City (ASK and STC 2010: 10; BILS 2009: 9). Critics identify two major problems with the 1961 Ordinance. First, it only aims to protect the employers from any offence committed by domestic workers and lacks any redress for domestic workers suffering abusive and harsh work conditions (ASK and STC 2010: 54). Second, the ordinance has become quite irrelevant since the practice of domestic worker registration is almost non-existent in the country, let alone in Dhaka City (BILS 2009: 7).

The rights groups contend that the utter negligence of the state authorities in mitigating the sufferings of domestics is seen in their deliberate exclusion from the Bangladesh Labour Act 2006 (ASK and STC 2010: 53; Islam 2014: 10). Article 1 (4) (o) of the 2006 Labour Act clearly states that domestic workers do not fall under the purview of the act. Interestingly, Bangladesh is not an exceptional case – a global study reveals that only 10 percent of the domestic workers in the world are 'covered by general labour laws', while another 30 percent are 'completely excluded from the scope of national labour laws' (ILO 2013: 50). The most common explanation behind such exclusionary policy lies in the fact that the large majority of these domestic workers operate at their employers' private houses, which makes it impossible for public inspectors to enter the workplace for the purpose of ensuring compliance with the law (ILO 2013; Thomas 2010).

Advocates of children's rights join the debate by focusing on international laws regarding the elimination of child labour, and the prospect of such laws covering child domestics. According to UNICEF (2010), Bangladesh introduced a National Child Labour Elimination Policy in 2010, which aimed to eradicate all forms of child labour by 2015. Khan (2000: 76) observes that, despite the existence of a child labour eradication policy and a host of other laws, many legal provisions governing children's and domestic workers' rights in Bangladesh cannot be enforced due to a weak inspection and monitoring system and the lack of an accurate birth registration system. Like UNICEF and Khan, Reazul Islam (2013) and Rizwanul Islam (2014) both suggest that Bangladesh is party to numerous international legal instruments which could prohibit the exploitation of children for domestic work purposes. Foremost among these instruments is the UN Convention on the Rights of Children 1989, ratified by Bangladesh

in 1990 (Islam 2014: 10). Articles 27, 28 and 32 of the UN Rights of the Child Convention stress the need to maintain a decent living standard and educational opportunities for children and to ensure the prohibition of child recruitment for economic exploitation. Although the Bangladesh government is yet to ratify ILO Convention 189 on Domestic Workers, it has ratified several others, including Conventions 29 on Forced Labour, 59 on Minimum Age (Industry), 105 on the Abolition of Forced Labour and 182 on the Worst Forms of Child Labour. Islam (2014: 7–8) notes that many of the international legal instruments are inapplicable in Bangladesh simply because they are not included in domestic laws, indicating that the country lacks a well-defined legal framework or national policy for the regulation of domestic workers. Although Bangladesh has signed numerous international treaties and conventions related to the rights of children and to decent work conditions, these have limited practical value in addressing the plight of domestic workers.

The Role of Advocacy Coalitions in Policy Change

The third type of literature focuses on the role of advocacy coalitions in policy change (Sabatier 1998). D'Souza (2010: 79–84) identifies two types of advocacy network – self-help organisations for domestic workers and coalitions of domestic and international NGOs involved in promoting domestic workers' rights. The SUMAPI in the Philippines, the Tunas Mulia in Indonesia, and the National Domestic Workers Alliance in the USA represent the first category – self-help associations which work to create awareness, protest against exploitation and increase the visibility of domestic workers in order to improve workplace conditions (D'Souza 2010: 80). In contrast, in Cambodia, Guatemala and Tanzania, various NGO networks collaborate with government agencies in creating a 'protective web' for adults and children operating under abusive conditions (D'Souza 2010: 82).

Writing in a global context, Gallin (2006) shows how the trade unions and NGOs can also collectively play an important role in mobilising public opinion and pressing for policy change. A study by Bakan and Stasiulis (1994: 19) discusses the networking role of live-in caregivers in Canada in protesting against the 1973 Temporary Employment Authorization Program for migrant domestic workers. Like those in foreign countries, native domestic workers in their homelands also come together to voice their demands. As Fish relates, this was evident in South Africa, where domestic workers' unions and coalitions secured a 'pivotal policy change through the first formal inclusion of the domestic work sector in unemployment insurance' (Fish 2006: 107).

Biswas (2010: 158) and Hossain (2010: 28) note that domestic workers in Bangladesh are not sufficiently organised to develop a united resistance against exploitation and abuse, due to the fact that they are mostly confined to private households and have few opportunities to exchange their ideas. In addition, they have very little educational background and barely recognise the importance of collective bargaining for state recognition (BILS 2015: 12). In the absence of any self-help groups of domestic workers, several trade-union activists and women- and rights-focused NGOs in Bangladesh have formed a two-track strategy: to support domestic caregivers' awareness programmes so that they can protest against abuse, and to establish an advocacy coalition for overall improvement in the conditions for domestic workers in the country, for an amendment to the labour law and for the adoption of a national policy (Ahmmed 2011a; BILS 2015: 12).

Research Gap

The existing literature provides a rich basis for understanding the typology of domestic workers and their employment conditions, and sheds light both on the legal vacuum in which the domestic workers operate and on how advocacy coalitions have the potential to work on this issue. However, the literature does not give us any concrete ideas about how the domestic workers' policy process evolved in Bangladesh or about the various stakeholders involved in it. This study addresses the knowledge gap by employing the 3-i framework and process-tracing methodology.

The 3-i Theoretical Framework

This framework provides a theoretical checklist enabling us to understand how the actors' institutions, interests and ideas interact with each other in shaping the policy development process (Gauvin 2014). Unlike the linear stages model, in which policy processes move from agenda-setting to formulation, implementation and evaluation, the 3-i framework offers a dynamic and interactive approach (De Leon 1999; Gauvin 2014).

The first component in this interactive framework is *institutions*, defined as 'the formal or informal procedures, routines, norms and conventions embedded in the organisational structure of the polity or political economy' (Hall and Taylor 1996: 938). Several types of institution influence the policy process: government structures, intergovernmental organisations, policy networks and policy legacies (Bennett and Elman 2006; Pierson 2000). *Government structures* refers to the distribution of political power between the central and federal authorities, as well as the mandates and jurisdictions of the government agencies involved (Gauvin 2014: 3). The existence of veto points in parliament or in any government department is an important attribute of government structures (Tsebelis 2000). *Intergovernmental organisations* such as the United Nations and the ILO also play an important role by creating global norms with which states are encouraged to comply and by promoting certain policy agenda.

Gauvin (2014:3) suggests that 'The existence of policy networks which unite the government with actors outside of the formal process of government can also shape policy developments and choices'. Murphy (2008: 27) uses the terms *policy network* and *policy elite* interchangeably and discusses how senior civil servants, cabinet sub-committees and ministers or advisors may form an internal policy network. *Policy legacies*, such as the constitution or past policies, may also present institutional incentives or disincentives in a policy agenda. The logic of policy legacy suggests that, once the government adopts a policy, it is difficult to reverse it because the vested-interest groups would challenge any drastic policy change (Gauvin 2014: 3; Levi 1997: 28).

The second group of factors that influence the policy process is *ideas*. Ideas refer to the *knowledge* or *perceptions* of stakeholders about a particular policy problem and its potential solutions. Gauvin (2014: 2) notes that 'Ideas can influence how different societal actors define a problem, but also how they perceive different policy options to be effective, feasible and

acceptable'. Ideas may come from empirical evidence, media reports, expert opinion or anecdotal evidence.

The third component in the 3-i framework includes *interests*. Two pertinent questions relating to mapping interests are: Who are the *winners* or *losers* of a policy choice? How much do they win or lose? Stakeholders may often vaguely define their interests in terms of what they thought about the potential gains or losses from a particular policy; however, these are difficult to quantify or monetise. Powerful stakeholders may dominate a policy dialogue in order to advance their own interests. They may also create blockages, fearing the outcome of the dialogue may not be in their best interest (Mayers 2005). Stakeholders who are deeply affected by a policy will lobby for favourable outcomes; in contrast, those who are only mildly affected may not have the same level of commitment to lobbying for a policy.

The Process-Tracing Method

According to Jeffrey Checkel (2005) and David Collier (2011), process-tracing contributes to a policy study by developing a careful description of the various stages in the process. Two principal sources of data inform a process-tracing study: *key informant interviews* and *documentary research*. Tansey (2007) notes that, in a process-tracing study, the goal of the researcher is to identify the most important, most influential actors and collect their testimonies in order to understand the role they played in the policy development process and how and why they played it. He adds that the influential policy actors can be chosen using two standards: positional criteria and reputational criteria (Tansey 2007: 771). The first approach requires identifying senior officials from a stakeholder group – such as government officials – whereas the second approach involves selecting an interviewee on the basis of his or her influence on the policy process.

For the purpose of this study, we conducted 15 *key informant interviews* (see Appendix 4). We began with a snowball process, where the goal was to establish a full list of key participants involved in the domestic workers' policy process (Biernacki and Waldord 1981). After four interviews and a stakeholder meeting in April–May 2015, we developed a primary list of key actors. We then applied the chain referral system to determine the positional and reputational criteria of the participants in the policy process and were thus able to select a small group of key policy elites for interview purposes. With the exception of one case, we contacted the participants by telephone initially and then met them at their offices for face-to-face interviews at their preferred time and place. A senior ILO official in Dhaka gave us a brief telephone interview. Our interviews were guided by a semi-structured questionnaire.

Most of the interviews were conducted by the lead researcher, with a co-researcher taking field notes. For the convenience of the participants, the interviews were conducted in Bengali. Five of the 15 interviews were audio-recorded, transcribed into Bengali and later translated into English. The rest of the interviews were conducted by taking extensive field notes which were then converted into transcripts. The respondents were informed of the study objectives and were assured of anonymity and the confidentiality of any 'sensitive part of the discussion' in which they would like to remain unidentified.

Documentary research complements elite interviewing in a process-tracing study (George and Bennett 2005; Mogalakwe 2009). A document is defined as an artefact and a written text. It

is produced by stakeholders involved in a policy process for their regular correspondence and to meet their official requirements. This study accessed both primary and secondary documents. Primary documents were produced by the direct participants in a policy process – such as the MLE and its Parliamentary Standing Committee, the BILS, the DWRN and the ILO. The list of primary documents includes various drafts of the Domestic Workers' Protection and Welfare Policy, minutes of MLE meetings, and internal memos and programme details of the BILS and DWRN. Since the BILS acts as the secretariat of the DWRN, some documents were co-produced.

For documentary research, we first consulted the library and resource centre of the Bangladesh Institute of Labour Studies (BILS). Later, we collected published reports and relevant project documents from some of the NGOs involved, such as Ain O Shalish Kendra, Nagorik Udyog and Nari Maitree. The reason for consulting the BILS archive was obvious: it is a think-tank of 13 trade-union federations in Bangladesh and has the most comprehensive collection of domestic worker-related documents produced by national and international organisations, including government and NGO documents and clippings of media reports. Archival data collected from the BILS cover the timeline 2006–2015, and offer a wealth of resources on the evolution of a network of policy actors since 2006, and how the members of the DWRN demonstrated varying levels of commitment to the support of the domestic workers' cause. The archival data also provided useful evidence to show how the DWRN initiated various awareness campaigns in order to reach out to the masses as well as to civil society representatives.

Secondary documents included academic journal articles, published books and official documents, and media reports on domestic workers' programmes, activities and policy issues. Scholarly analyses and press commentaries also provided a useful tool with which to triangulate a series of sources.

Ethical Considerations

Since this study used both interview data and document reviews, we addressed the ethical issues in two ways. First, prior to conducting the interviews, we showed the questionnaire to the respondents. We also sought their verbal consent because of a general sensitivity about and negative attitude towards signing any written document. We also invited them to an inception meeting in April 2015 and a dissemination workshop in April 2016 to receive their input into our study plans and share the findings of the study. In this way, we maintained the transparency and accountability of our study goal, methods and findings. We also ensured the confidentiality and anonymity of key informant interviewees. We only cited the names of those who gave us explicit permission to do so. Since the study involved a group of researchers with access to shared computers and online resources, we appreciated that our data storage system was not fully secure. We understood that interviews about past events may entail a degree of recall bias and so we tried to triangulate all such information with other interviewees' narratives or documentary sources.

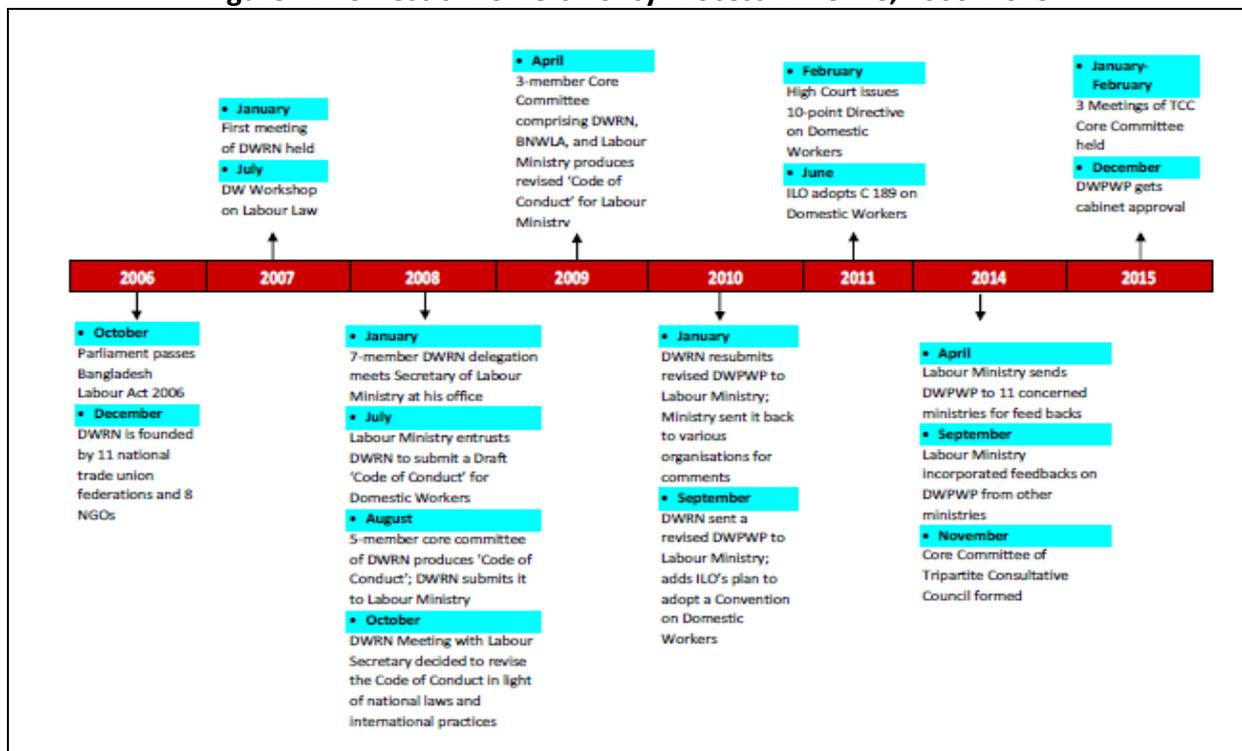
Second, we identified several quality control criteria for our documentary research: authenticity, credibility, representativeness and meaning (Mogalakwe 2006: 224–228; Scott 1990: 1–2). First, the authenticity or reliability of a document was established by determining

its author and verifying its consistency and style through comparison with similar documents. Next, the credibility was maintained by establishing that the documents at hand had not been distorted by anyone. Sometimes we looked back at the interview transcripts to ensure the authenticity and reliability of the primary documents. When we found inconsistencies between interview data and archival documents, we gave priority to the documentary evidence. Third, the issue of representativeness is more relevant to certain types of document— such as policy speeches by senior ministers or government officials – which usually reveal a government policy. We determined that speeches by the Minister for Labour and Employment or the Labour Secretary represented the view of the Ministry as a whole. Similarly published and unpublished documents produced by a member organisation of the Domestic Workers Rights Network would reflect the individual opinion of that organisation, unless they were co-produced by the DWRN. Fourth, since the documents used for this study were published at different times, we first established a chronological history of the policy process, and then consulted senior officials at the DWRN in order to better understand the context and meaning of the documents.

Evolution of the Domestic Workers Protection and Welfare Policy 2015

As stated before, the Bangladesh government’s approval of the Domestic Workers’ Protection and Welfare Policy 2015 marked the end of a long-drawn-out effort by the DWRN to secure state recognition of the domestic caregiver profession. This next section presents the findings from key informant interviews and archival documents to develop a history of the policy process (Figure 1).

Figure 1. Domestic Workers Policy Process Timeline, 2006–2015



Although several rights groups such as Surovi have been working since 1979 – and Shoishob Bangladesh since 1999 – to promote the rights of domestic workers, the agenda for a separate law and national policy for domestic help did not receive any sustained attention until

October 2006, when the Bangladeshi parliament passed the Labour Act 2006 and excluded domestic workers from its purview (BILS 2006, 2015). The act was hailed by many as an initiative to promote the rights of formal-sector workers but the national trade unions and rights groups were disappointed to see that several categories of informal-sector workers, including domestic workers, were excluded (Ahmmed 2011b; BILS 2007, 2009). This sparked their interest in setting up a common platform to demand state recognition of the profession of domestic work. The search for this legal recognition by the state has been the principal demand of the pro-workers groups. Minutes of a meeting of the MLE dated 2 July 2008 notes that:

Domestic workers are not included in the Labour Act 2006. The meeting discussed the fact that it is very important to include this category of workers under the legal coverage. Since the amendment or formulation of a law is a lengthy and time-consuming process, participants in the meeting discussed whether a guideline or code of conduct could be developed [to regulate the employment of domestic workers] (2008a: 1).

We found that the policy formulation process progressed in stages, as described below.

- i. *Formation of Advocacy Coalition and Outreach Activities (2006–2008)*. In the first stage, the Domestic Workers Rights Network was founded in December 2006 by 19 organisations representing 11 national trade unions and eight human-rights groups (BILS 2007). The purpose of the DWRN was to take collective initiatives for the promotion of domestic caregivers' jobs and their basic rights (DWRN 2009). Since its establishment, it has organised seminars and symposia, distributed leaflets to create awareness among employers and sensitise them about domestic workers' rights, and encouraged the creation of local support groups to protest against abuse and demand protection from torture and inhumane treatment (interviews with Sultan Uddin Ahmmed and Nazma Yesmin, 2015).
- ii. *Formulation of Draft Code of Conduct (2008)*. On 2 July 2008 a meeting of the DWRN and the BEF, together with senior government officials, was held at the MLE, with the acting Labour Secretary, Dr Mahfuzul Haque, presiding. The DWRN's coordinator, Sultan Uddin Ahmmed, was given the responsibility of developing a draft guideline or Code of Conduct (MLE2008a). A five-member delegation from the DWRN – comprising ASK, Bangladesh Legal Aid Services Trust (BLAST), the BILS, the Bangladesh National Women Lawyers Association (BNWLA) and the NDWWU – produced a first draft policy entitled Code of Conduct for the Protection and Welfare of Domestic Workers 2008. The DWRN also produced a framework amendment to the labour law (see Appendix 3), submitting it along with the Code of Conduct in August 2008 (MLE2008b).
- iii. *Revision and Submission of Code of Conduct (2008–2009)*. In October 2008, a core committee was formed by the Ministry to revise the Code of Conduct in light of the Bangladesh Constitution, and the related rules and regulations in neighbouring countries (MLE2008c). The committee consisted of DWRN coordinator Ahmmed, Advocate Kohinoor Begum from the BNWLA, and Deputy Secretary Aminul Islam from the MLE. The committee

produced a revised Code of Conduct which was submitted to the Ministry in April 2009 for further steps and government approval (Ahmmed 2011a; DWRN 2009).

- iv. *Re-Submission of the Code of Conduct to the MLE (2010)*. The DWRN saw no further development, and re-submitted the Code of Conduct to the Ministry of Labour and Employment in January 2010 (DWRN 2010). The Ministry sent it back to various member organisations of the DWRN to receive their opinion.
- v. *Formulation of a Draft Domestic Worker Policy and International Advocacy for the ILO Convention (2010)*. Upon receipt of the member organisations' feedback on the Code of Conduct, the DWRN produced a further revised document entitled Domestic Workers' Protection and Welfare Policy (DWPWP) 2010 and submitted it to the Ministry (MLE2010).
- vi. *MLE's Internal Fine-Tuning (2010–2014)*. The MLE put the draft policy on hold for nearly three years, fine-tuning it only in April 2014. The draft DWPWP was debated by three lawmakers –including Labour Minister Mosharraf Hossain MP, Shipping Minister Shahjahan Khan MP, and the Chair of the Parliamentary Standing Committee of the MLE, Israfil Alam MP. The Secretary, Joint Secretary and Deputy Secretary – three top bureaucrats at the Ministry – also joined the elected lawmakers in fine-tuning the draft DWPWP (Interview with Israfil Alam MP, 2015).

In February 2011, the High Court in Bangladesh issued a 10-point directive in response to public interest litigation by a rights-based NGO and DWRN member – the Bangladesh National Women Lawyers Association (BNWLA) (see Appendix 6). The writ petition was filed in response to a series of abusive incidents in which child domestic workers were the victims of physical violence committed by employers. The High Court Directive had no significant effect on the policy process, since the MLE took its time to formulate the domestic workers policy.

Later, in June 2011, the ILO adopted Convention 189 on Domestic Workers. Although neither the Bangladeshi High Court nor the ILO directly participated in the policy process, the pro-workers' coalition members saw these two developments as having far-reaching consequences for the promotion of the rights of domestic workers.

- vii. *Inter-Ministerial Consultation (2014)*. On 7 April 2014, the MLE sent the 'fine-tuned' draft to 11 ministries as part of an inter-ministerial consultation process. Once the ministries had returned their feedback, this was incorporated in a revised version of the Domestic Workers' Policy by September 2014, and relevant stakeholders in the tripartite consultation process were invited to produce a consensus document before placing it before Cabinet for approval (Interview with Aminul Islam, 5 May 2015).
- viii. *Tripartite Consultation (2015)*. A six-member core committee – two delegates from the MLE, two from trade unions and two from the Employers' Federation – was formed by the Tripartite Consultative Council (TCC), which met three times in January and February 2015 (Interview with Aminul Islam, 5 May 2015) (see Appendix 7). The differences between the pro-worker advocacy coalition DWRN and the pro-employers coalition BEF had existed from the very beginning of the policy process. Such differences were sharpened at the TCC

core committee meetings since the BEF delegates opposed some of the provisions – registration, the minimum wage, the wage card, the educational responsibility of domestic workers to be borne by employers, legal contracts and termination (Interviews with Kazi Saifuddin Ahmed, 27 May 2015 and Dr Wajedul Islam Khan, 25 May 2015).

- ix. *Cabinet Approval (2015)*. The Domestic Workers’ Policy was finally placed before the Cabinet – the Council of Ministers chaired by Prime Minister Sheikh Hasina. The Cabinet approved it on 21 December 2015 (*The Daily Star* 2015).

As Figure 1 and the subsequent policy history show, three major versions of the Domestic Workers’ Policy were drafted over the whole process of policy formulation. However, there are similarities and dissimilarities between the three versions, as shown in Table 1.

Table 1. The Domestic Workers’ Policy – Comparison of Three Draft Versions

| Key provisions | Code of Conduct for the Protection and Welfare of Domestic Workers (CCPWDW) 2008 | Draft Domestic Workers’ Protection and Welfare Policy (DWPWP) 2010 | Domestic Workers’ Protection and Welfare Policy (DWPWP) 2015 |
|--|--|---|--|
| <i>Definition</i> | No conceptual definition is provided | Four concepts are defined: a) Domestic work b) Domestic worker c) Employer d) Registration authority | Four concepts are defined: a) Domestic work b) Domestic worker c) Employer d) Decent work |
| <i>Reference to legal sources</i> | No reference to Bangladesh Constitution or Universal Declaration of Human Rights | Universal Declaration of Human Rights • Articles 23, 24, 25: Fair wage, fixed working hours, proper rest and recreation, hygienic living conditions, living with dignity with family members, and social rights protection Bangladesh Constitution • Article 28 (4): special provisions be developed for the protection of a backward community of the country | Bangladesh Constitution • Article 20: recognises the rights of workers • Article 27: stipulates the equality of all citizens and their right to justice • Article 34 prohibits forced labour Universal Declaration of Human Rights • Article 1: All human beings are born free and equal in dignity and rights • Articles 23, 24, 25: Fair wage, fixed working hours, proper rest and recreation, hygienic living conditions, living with dignity with family members, and social rights protection • Bangladesh’s preparation for ratifying ILO Convention 189 on Domestic Workers |
| <i>Registration</i> | Employers should get domestic workers registered with the authorities as specified by the government | Government will provide clear directions on how to register domestic workers | Local authorities will maintain data on domestic workers |
| <i>Minimum wage</i> | Government should determine minimum wage for domestic workers. Only the domestic worker will receive the wage | Unless and until the government determines a minimum wage, employer and worker will arrive at a negotiated wage | Wage will be negotiated by employer and worker |
| <i>Age/ recruitment of children</i> | Children below the age of 14 cannot be employed for domestic work purposes | Children below the age of 14 s cannot be employed for domestic work purposes | Children below the age of 14 cannot be employed for domestic work; on special consideration, 12-year-old children can be recruited for light work with the permission of their parents or legal guardians |
| <i>Working hours, leave & recreation</i> | Working hours must allow a domestic worker a continuous 8-hour period of sleep at night and 4 hours for daytime rest and recreation | Working hours must allow a domestic worker a continuous 8-hour period of sleep at night and 4 hours for daytime rest and recreation | Working hours must allow a domestic worker enough time for sleep at night and for daytime rest and recreation |
| <i>Education and training</i> | Domestic workers should have the opportunity to receive primary education, religious education and skills training | Employers will take initiatives for the educational and skills development training of domestic workers either at home or at the nearest institute | Concerned ministry or government department or private sector entrepreneurs will take initiatives to provide skills development training to domestic workers so that they can go abroad and earn remittances |

| | | | |
|---|---|--|---|
| <p><i>Action against abuse</i></p> | <ul style="list-style-type: none"> • If any domestic worker experiences harassment or torture, legal steps should be taken to ensure justice as per the Bangladesh Penal Code, Code of Criminal Procedure, and Women and Children Repression Prevention Act 2000 (Amended 2003) • If any domestic worker becomes the victim of physical or mental abuse or inappropriate conduct by any visitor at the employer's place, the employer will take responsibility for such misconduct | <ul style="list-style-type: none"> • If any domestic worker experiences inappropriate conduct while discharging their duties, the government will take responsibility to ensure justice is given. The Home Office, the Ministry of Labour and Employment, the Ministry for Women's and Children's Affairs and the Ministry for Social Welfare will provide clear guidelines to law enforcement agencies handling such cases. • If domestic workers experience any physical, mental or sexual abuse by the employers' family members or visitors, the employer will take prompt legal action such as filing a General Diary or lawsuit at the police station, and provide support to the investigating officer. | <ul style="list-style-type: none"> • If any domestic worker experiences any inappropriate conduct while discharging their duties, the government will take responsibility to ensure justice is given. The Home Office, the Ministry of Labour and Employment, the Ministry for Women's and Children's Affairs and the Ministry for Social Welfare will provide clear guidelines to law enforcement agencies handling such cases. • The Home Office or other ministries will provide directives so that local police stations can take prompt action in dealing with cases related to domestic worker abuse and harassment. • In addressing sexual harassment cases, Bangladesh' High Court Guidelines will be applicable. |
| <p><i>Monitoring and inspection</i></p> | <ul style="list-style-type: none"> • Inspection: The Ministry of Labour and Employment will form a central monitoring cell, which will work closely with decentralised monitoring cells established by city corporations, district offices and local government units. Employers, trade unions, civil society and local government officials will be included in the monitoring team. • Inspection team will visit workplaces and report any instances of abuse immediately to the district-level monitoring cell. • The government will issue a directive to form the monitoring cell within three months of adopting the Code of Conduct. | <ul style="list-style-type: none"> • Inspection: The Ministry of Labour and Employment will form a central monitoring cell, which will work closely with decentralised monitoring cells established by city corporations, district offices and local government units. Employers, trade unions, civil society and local government officials will be included in the monitoring team. • Inspection team will visit workplaces and report any instances of abuse immediately to the district-level monitoring cell. | <ul style="list-style-type: none"> • Monitoring: The Ministry of Labour and Employment will form a central monitoring cell, which will work closely with decentralised monitoring cells established by city corporations, district offices and local government units. • Inspection: Local government bodies will form inspection teams to implement this policy and to take action in cases where it is breached. The inspection team will be composed of representatives of local government, local civil society and government officials working in local areas. Such inspection teams may also include representatives from human rights and development organisations (NGOs and trade unions). • Inspection team will randomly visit domestic workplaces but should ensure the privacy of the employers and their families. |

As shown in Table 1, there are marked differences between the two earlier drafts of the Domestic Workers' Policy and the final version that was approved by the government in 2015. Among the most contentious issues were the DWPWP 2015's exclusion of any provision for mandatory registration, the determination of a minimum wage and fixed working hours. It also allowed the recruitment of children aged 12 – in special circumstances and only for light work – whereas the DWRN stated that children below the age of 14 should not be recruited under any circumstances. On education and training, the government and private sector agencies, rather than employers, were encouraged to take initiatives to develop the skills base of domestic workers. This is in sharp contrast to the 2010 draft, which referred to employers' initiatives to provide educational and training opportunities for domestic workers. The final policy of 2015 differentiates between monitoring and inspection, whereas the earlier two drafts of 2008 and 2010 did not. All three versions required the MLE to form a central monitoring cell to work with district and sub-district cells. On inspection, the final policy draft is more detailed about the composition of the local inspection team and the representation of human rights and development NGOs, trade unions and local civil societies.

Although the 2010 and 2015 versions of the DWPWP referred to the Bangladesh Constitution and the Universal Declaration of Human Rights (UDHR), there is a subtle difference in their sequence of reference. For instance, the Constitution was cited *after* the UDHR in the 2010 draft. This order of reference was reversed in the DWPWP 2015, primarily to indicate that the Constitution represents the supreme law of the nation and the government is committed to upholding it.

Since the DWPWP 2015 excluded registration, the minimum wage and employers' responsibility for domestic caregivers' education and skills training, the workers' coalition has declared that it will continue demanding the inclusion of such provisions in labour law (Interview with several DWRN leaders, 25 April 2016). During a workshop organised by the Refugee and Migratory Movements Research Unit in April 2016, DWRN leaders opined that the adoption of the policy itself was a moral victory (*New Age* 2016). They also claimed that the inclusion of 'decent work' in the preamble to the policy, the reference to the Bangladesh Constitution and the UDHR, and the detailed provisions on legal action against physical, mental and sexual abuse were important milestones in the promotion of the rights of domestic workers in the country (Interview with Sultan Uddin Ahmmed, 25 April 2016).

In sum, from December 2006 to October 2008, the DWRN formed an advocacy coalition and produced a draft Code of Conduct, which was later extensively debated and revised by various stakeholders – including NGOs, trade unions, parliamentarians and officials from the MLE – until 2010, when it was renamed the DWPWP. The policy process was held up at the MLE for almost four years until it was revived in 2014 and moved to the next stage of inter-ministerial consultation. Compared to the incremental stages of progress between 2008 and 2014, the last three – including inter-ministerial consultation, tripartite meetings and cabinet approval – appeared to proceed quite smoothly in 2014–2015. In the next sections we discuss how the MLE controlled the policy agenda and slowed down the process, both in its search for a consensus document and simply because it was preoccupied with other high-priority issues such as the formulation of Labour Rules and labour-law amendments. In addition, civil servants from various ministries, who were also employers of domestic workers, feared that they would lose out if a domestic workers' policy included a ban on children's recruitment and imposed fixed working hours and other labour rights-related provisions.

Stakeholder Mapping

In their seminal work on the role of advocacy coalition in policy change, Weible and Sabatier note how 'policy participants seek out allies with similar policy core beliefs and coordinate their actions with these allies in advocacy coalitions'. The authors also note that, when policy disagreements between rival coalitions emerge, 'policy brokers seek to find reasonable compromise' (2007: 128). The evolution of the Domestic Workers' Policy process in Bangladesh offers us an opportunity to look at two competing advocacy coalitions, and a policy broker, all of whom played an important role as key stakeholders.

In the Domestic Workers' Policy sub-system, one of the two major stakeholder groups – the pro-workers' advocacy coalition DWRN – was driven by a core belief that domestic work needs legal coverage guaranteeing, *inter alia*, a fixed minimum wage, safe working conditions

and proper workplace inspections. In contrast, the employers' coalition BEF found much of the DWRN agenda to be unrealistic in the socio-economic context of Bangladesh. In an ideal world, the MLE would have acted as a 'policy broker'. However, given the fact that civil servants both there and in other ministries themselves employ domestic workers, the policy broker's role can hardly be expected to be neutral. Data and evidence presented below will further illustrate this.

Pro-Workers' Coalition

The DWRN and its members were the primary stakeholders representing the interests of both live-in and live-out domestic workers. While the DWRN participated in the policy process as a collective actor, its constituent member organisations – such as the trade unions and NGOs – had also independently contributed to the policy dialogue that eventually formulated the DWPWP. This dynamic role of the pro-worker coalition and its major members is discussed below.

Domestic Workers Rights Network

The Domestic Workers Rights Network (DWRN) represented two groups of actors: national trade-union federations and domestic NGOs (Appendix 5). Since the establishment of the DWRN in 2006, Syed Sultan Uddin Ahmmed, assistant executive director of the BILS, has acted as DWRN coordinator and Nazma Yesmin as members' secretary. Ahmmed was part of a 3-member core committee formed by the MLE which produced the first policy draft entitled *Code of Conduct for the Protection and Welfare of Domestic Workers 2008*. In his interview on 20 July 2015, he describes the background to the DWRN:

In 2004, the BILS conducted a survey on domestic workers in Bangladesh. The survey gave us concrete information that we were able to disseminate among our peer organisations. Later we organised a round-table to disseminate the study results. We communicated with several human-rights organisations, including ASK, the BNWLA and STC. After seeing the results, we all acknowledged that the issue of domestic workers' rights is significant and the scope of the work is huge, which is difficult to organise on an individual basis. Then we decided to form the 'domestic workers' network' as a collective effort.

As a review of archival documents suggests, the BILS Seminar Hall offered a platform for the DWRN to organise meetings and workshops for domestic workers' policy advocacy campaigns. As a result people often confuse the BILS and the DWRN, believing them to be the same. While they are co-located on the same premises, the major difference is that the BILS is a think-tank of national trade unions and works on a wide range of labour-related issues, focusing on the rights of both formal- and informal-sector workers; the DWRN, on the other hand, represents a wide array of organisations committed only to promoting the rights of domestic workers (Interview with Nazma Yesmin, 5 December 2015). Since the BILS provides secretarial services to the DWRN, publications on the issue of domestic workers often come from the BILS, as mentioned earlier.

We find that the DWRN did not always act as a homogenous actor; instead its constituent bodies – trade-union federations and national NGOs – often acted independently but complemented the DWRN’s agenda. It is therefore essential to provide a snapshot of the DWRN’s ‘heavyweight’ member organisations and their position on formulating a policy for domestic caregivers.

National Trade Union Federations

Among the 19 founding members of the DWRN, 11 were national trade unions. These bodies participated at varying levels in the formulation of the domestic workers’ policy, some drafting the policy while others were devoted to organising the part-time workers. This they did by showing them how to make their voices heard when protesting against their working conditions and when putting their demands before policy-makers at seminars and public meetings. The most proactive trade unions in the policy process were the *NDWWU* and *Sramik Karmachari Oikya Parishad (SKOP)*.

The *NDWWU* was founded in 2000 by a veteran trade-union activist, Abul Hossain, who now acts as the organisation’s advisor. It is an informal-sector trade union which is not recognised by the government since the current system does not allow for the registration of informal-sector workers in Bangladesh. With an estimated 10,000 members, the *NDWWU* demands rights for and the recognition of domestic caregivers. Since the *NDWWU* is the first trade union focusing exclusively on domestic workers, it has played a pioneering role in conceptualising the demand for a domestic workers’ policy. According to *NDWWU* advisor Hossain:

Domestic workers are selling their labour but don’t have any internationally recognised rights. They are treated as slaves. When they work in a place, their food is cooked and served separately. They are treated inhumanely. Our [*NDWWU*’s] major goals are to make them united and to secure the recognition of domestic workers as labourers and make them aware of their rights. Once the domestic workers secure such recognition, they will be able to demand rights and protection from the state.

SKOP was founded in 1983 as an umbrella organisation of 12 trade-union federations during the military regime of Hussein Mohammad Ershad (Khan 2014). Since trade-union activities were prohibited at that time, *SKOP* mounted a strong movement for their restoration and has gradually emerged as a well-respected stakeholder in any labour-related policy dialogues. Dr Wajedul Islam Khan, coordinator of *SKOP* and general secretary of the Trade Union Centre, has participated in the domestic workers’ policy issue as part of the 6-member core committee of the Tripartite Consultative Council (TCC) which prepared a revised policy draft before it was placed before Cabinet for approval in 2015. TCC is a mandatory, high-level panel representing employers, workers and the MLE. Khan claimed that:

Our position was demanding registration, appointment letters, wage increases, 8–10 working hours, decent work conditions and trade-union or area-wise registration rights for domestic workers. Simply speaking, we wanted an embryo for the rights of domestic workers, which would form the core of domestic workers’ rights (Interview 25 May 2015).

Other trade unions took it as a means to organise workers. According to Nazrul Islam, advocacy officer at the BILS, as part of their commitment to organising domestic workers, 10 national trade unions in Bangladesh formed domestic workers' support groups in 10 areas of Dhaka City. Each of these support groups has at least 20 domestic workers, headed up by a female leader from the respective trade union. The BILS provides a nominal BDT 1,000 (US\$13) in monthly support to enable each of these groups to hold monthly meetings (Interview with Nazrul Islam, 26 April 2016). A report by the BILS (2009: 14) notes that trade unions have historically played a limited role in 'establishing the rights of domestic workers in the country' but 'have raised their voices against the exclusion of domestic workers from the Labour Law of 2006 and are performing a pro-active role to bring domestic workers under coverage of the law'.

National NGOs

In contrast to the trade unions, which focused on labour-rights issues such as wages, working hours and decent work conditions, the human rights groups joined the policy process with an agenda to stop abuse against caregivers and to promote the rights of women and children – the largest category of domestic workers. Our review of the minutes of several meetings at the MLE revealed the constructive role of rights-based NGOs in promoting the agenda concerning the domestic workers' policy.¹ About the role of human-rights organisations, the BILS (2009: 14) notes:

A handful of civil society organisations, including but not limited to Shoishob-Bangladesh, ASK, the BNWLA and Surovi, have incorporated the issues of domestic workers in their programmes. It is important to note here that most of these organizations consider the issue primarily from a human-rights point of view and do not perceive the issue exclusively from a labour-rights perspective.

Ain O Shalish Kendra (ASK) [Centre for Law and Mediation] was founded in 1986 and has since emerged as a leading legal-aid provider working on community activism, legal support for the poor and advocacy for law and policy reform. It was one of the five key organisations which produced the Code of Conduct for Domestic Workers 2008. In 2010, ASK and Save the Children jointly published a report entitled *Living Inside Room Outside Law: A Study on Child Domestic Workers and the Role of Government and Civil Society*. The report emphasised the need to protect the rights of children who are employed in domestic service.

Bangladesh Legal Aid Services Trust (BLAST) was founded in 1993 to provide free legal support for poor and marginalised people. BLAST's most recent work includes litigation regarding extrajudicial killings, women's rights, Adivasi rights and the rights of persons with disabilities. BLAST was one of the five core committee members which produced the first Code of Conduct in 2008.

The Bangladesh National Women Lawyers Association (BNWLA) was founded in 1979. It works on promoting the rights of women and children and establishing social justice (BNWLA 2013). BNWLA worked with ASK, BILS, BLAST and NDWWU to draft the Code of Conduct 2008. The association filed public interest litigation in 2010 for the banning of child domestic workers.

In response, the High Court of Bangladesh issued a judgement in 2011 on the prohibition of child domestic workers and the recognition of the domestic workers' policy (Supreme Court of Bangladesh 2011). Advocate Salma Ali, Executive Director of BNWLA, opines: 'Unless a new labour law is enacted or the existing law amended, the High Court judgement will be considered a source of law, as per Article 111 of the Constitution of Bangladesh' (Interview 25 April 2016).

Nagorik Udyog (NU) [Citizen's Initiative] was founded as a not-for-profit organisation in 1995. It works on strengthening local government institutions and promoting the rights of the underprivileged, including women and children, and the excluded (Islam *et al.* 2010: 2). NU's chief executive, Zakir Hossain, has supported the domestic workers' policy process by formally participating in DWRN meetings as well as by providing rigorous input to the draft policies. During the policy dialogues, NU emphasised the need to address the long working hours and to ensure punishment for human-rights offenders (Interview 30 April 2015).

Nari Maitree (NM) [Women's Solidarity] was founded in 1983 to work for 'disadvantaged poor and vulnerable women, adolescents, youth and children'. It joined the DWRN in 2012. Shaheen Akhtar Dolly is Executive Director of NM. The association had no significant input into the policy formulation process, but nevertheless conducted several action research and advocacy campaigns showing that the draft provisions in the domestic workers' policy were implementable (Interview 29 April 2015).

Pro-Employers' Coalition

The Bangladesh Employers' Federation (BEF) was founded in 1998 as an advocacy group of private-sector enterprises. With its 225 individual and 14 group members, it represents the interests of those who employ domestic workers. According to Kazi Saifuddin Ahmed, a retired MLE official and currently Labour Advisor to the BEF, 'ILO Convention 144 requires a tripartite format for labour-related policy making. So, whenever the government initiates any labour-related policy, BEF is included in the tripartite consultative council (TCC)' (Interview 27 May 2015).

Our study reveals that the MLE invited two BEF delegates to attend TCC core committee meetings on the formulation of the domestic workers' policy. Saifuddin Ahmed also participated, prior to which he attended numerous policy dialogues on domestic workers, held in the Ministry conference centre. Ahmed claimed that he had tried to convince SKOP leader Khan that a wide range of provisions in the DWPWP would not be in the interest of employers, who were not ready for any sudden and radical change. Ahmed urged the trade-union leader: 'Let's not ask for a radical policy'. When Khan appeared adamant on the DWRN demands, Ahmed found another trade-union representative with a pro-government affiliation, Mr Shukkur Mahmud, 'very pragmatic [since] he supported our [BEF] position' (Interview with Kazi Saifuddin Ahmed, 27 May 2015).

We find that the BEF primarily deals with formal-sector workers. When we asked how the BEF would justify its involvement in TCC meetings on domestic workers, who are broadly categorised as informal, Saifuddin Ahmed replied that 'Domestic workers are informal sector workers. So the BEF is sympathetic to them. We are positive about their rights, but we [BEF]

want our institutional involvement to be limited [since they are not formal sector workers]’ (Interview 27 May 2015). The other member of the BEF’s TCC delegate, Faruk Hossain, could not be reached.

Executive and Legislative Branches

Civil Servants. The policy issue fell under the jurisdiction of the MLE. Hence, civil servants or bureaucrats there worked with the DWRN and BEF delegates in co-producing, editing and approving the policy. Among the officials from the Ministry, Deputy Secretary Aminul Islam was the nodal person coordinating the domestic workers’ policy dialogue. Not only was he a participant in the three-member core committee which produced the Code of Conduct 2008, but he also worked with an inner circle from the Ministry comprising Labour Secretary Dr Mahfuzul Haque and his successors, including the present Labour Secretary Mikail Shipar (Interview with Israfil Alam MP, 29 July 2015). When the Ministry convened an inter-ministerial consultation, civilian bureaucrats from 11 ministries provided their comments on the draft policy (Interview with Aminul Islam, 5 May 2015).

Table 2. Ministries and their Role in DW Policy

| Ministries | Role in DW Policy |
|--|--|
| <ul style="list-style-type: none"> • Home Affairs • Women and Children • Social Welfare | Implementation of existing laws and ensuring justice in cases of exploitation or abuse |
| <ul style="list-style-type: none"> • Law | Vetting of any amendment to labour law or formulation of a separate law for domestic workers |
| <ul style="list-style-type: none"> • Local Government, Rural Development and Cooperatives | To facilitate inspection of domestic workers’ conditions through local government bodies such as city corporations, municipalities or union councils |
| <ul style="list-style-type: none"> • Information | Provide support for the dissemination of DWPWP 2015 |
| <ul style="list-style-type: none"> • Expatriates’ Welfare and Overseas Employment | Promote skills development training for domestic workers so they can work abroad and send back remittances |

Although civil servants from 11 ministries were involved in the policy process at a much later stage, they had participated in the policy formulation by providing comments on the draft DWPWP (see Table 2 for a list of ministries explicitly referred to in the DWPWP 2015). Among the seven ministries listed in the DWPWP, only those for Information and for Expatriates were mentioned for the first time in the DWPWP 2015; the rest were already listed in the 2010 version of the DWPWP, before the draft was sent for vetting. In retrospect, since these seven ministries’ role in implementing the DWPWP is clearly specified, we can surmise that they did not oppose being listed. We were unable to determine who, from these ministries, had participated in the inter-ministerial process, nor whether they played any significant role in supporting or rejecting provisions in the draft DWPWP before it was sent to the TCC.

Parliamentarians. When the Domestic Workers’ Protection and Welfare Policy 2010 was drafted, it was debated by a core group of pro-government lawmakers, including MPs Mosharraf Hossain, Shahjahan Khan and Israfil Alam. A former ILO chief technical consultant,

Hossain was in charge of two ministries – Labour and Employment and Expatriates’ Welfare and Overseas Employment – and was well known as a liberal and pro-labour politician. He is now in charge of the Ministry of Local Government and Rural Development. Khan is a veteran trade-union leader and has been Shipping Minister since 2009.

Alam was Chairman and is currently a member of the Parliamentary Standing Committee of the MLE. Later he was also inducted as a member of the Parliamentary Standing Committee of the Ministry for Expatriates. Historically, the standing committees have played an important role in promoting ‘transparency and accountability in the functioning of the ministry and play an intensive, effective, and vital role in the process of law and policy-making’ (Bangladesh Jatiya Sangsad 2014). Among the parliamentarians, Alam was the most proactive on the domestic workers issue. We interviewed Alam twice but could not reach the other two parliamentarians. Alam felt that Minister Hossain strongly supported the policy but was not very successful due to an ‘invisible force’ – those civil servants who themselves employed domestic workers and were concerned about the adverse effect of a liberal policy for domestic caregivers (Interview 25 April 2016).

In summary, the pro-worker DWRN and its member organisations, and the pro-employer BEF, were the primary stakeholders in the policy process, representing ‘rival coalitions’ as conceptualised by Weible and Sabatier (2007). Since the MLE is in charge of monitoring and implementing the policy, it had a huge stake in its drafting, fine-tuning and approval stages. Implementation of the DWPWP 2015 would require the involvement of the other ministries in the policy dialogue, which might indicate a third advocacy coalition representing professional civil servants with an institutionalised role in controlling the policy process. Although the High Court’s 10-point directive and ILO Convention 189 came in 2011, neither institution participated in the policy process as stakeholders. Instead, they created the norms and ideas which we discuss in the next section.

The Relevance of the 3-i Framework

This section examines the relevance of the 3-i framework by exploring how various *institutions*, *ideas* and *interests* shaped stakeholder positions, leading to the production, revision and approval of the DWPWP 2015.

Institutions

Bangladesh is widely characterised as an ‘administrative state’ where civilian bureaucrats control the policy process (Khan 2013), as was evident in the various policy formulation stages steered by the MLE.

This study reveals that, although the earliest draft of the policy was in 2008 in the form of a Code of Conduct, it was later revised by the MLE and renamed the DWPWP 2010, before further amendments lead to its approval in 2015. While this delay could indicate MLE inefficiency, it was primarily caused by bureaucracy. The MLE offers different explanations – its pre-occupation with other priority areas such as the formulation of Labour Rules and the aftermath of the largest industrial accident in 2013, in which more than 1,100 garment workers were killed (Butler 2013). The DWRN leaders disagreed with these excuses and

argued that bureaucrats, who were themselves employers of domestic workers, had stalled the policy process for fear that it would adversely affect them. One union leader and member of the TCC core committee, Dr Wajedul Islam Khan of SKOP and the Trade Union Centre, opines that government bureaucracy in general and the MLE in particular, had effectively delayed the policy process for these same reasons (Interview 25 May 2016).

The other two branches of government, the parliament and the judiciary, had varying levels of institutional influence. Parliament was involved in the process through its MLE standing committee meetings, where the domestic workers' policy issue was deliberated on several occasions (Bangladesh Jatiya Sangsad 2014). Although the High Court's 2011 10-Point Directive is considered the 'equivalent of law' until a new law is formulated on the matter, it did not produce any visible reaction from the government, nor any acceleration of policy development stages. Despite that, Article 7.10 (d) in the DWPWP 2015 stipulates that the 'guideline of the High Court will be applicable in cases related to sexual harassment and sexual abuse'. In response to our query, Advocate Nazrul Islam of the BILS confirmed that the High Court had previously issued a general guideline on the prevention of sexual abuse and the DWPWP 2015 was referring to that. Although the DWPWP 2015 does not refer to the High Court judgement on domestic workers, several instructions in the Directive, especially those on vocational training and medical treatment for illness and injury, are categorically mentioned, while many other instructions – such as mandatory registration and the inclusion of domestic workers in the Labour Act – were not mentioned, possibly indicating that the government adopted a cherry-picking strategy in complying with the High Court's judgement on domestic workers.

At various stages of the policy process, some of the NGOs and trade unions were influenced by the international organisations and donor agencies. Among the international organisations, the ILO has generated the most knowledge on labour rights and thus influenced domestic and international organisations on labour compliance issues (ILO 2012). Prior to its adoption of the Convention 189 on Domestic Workers, the ILO's Geneva office sent a letter to the MLE, together with a draft convention seeking the Bangladesh government's support. The ILO's Dhaka office also organised civil society consultations in order to shape the government's views on the domestic workers issue (Interview with a senior official at the ILO's Dhaka office, 20 May 2015). In a report published by the BILS (2009: 4), the ILO's advocacy role was vividly described:

To facilitate discussion on domestic work, ILO-Dhaka is supporting the consultation process involving the ILO constituents and civil society organizations working on domestic worker issues so their views are incorporated in the government's response relating to the issues of the domestic workers, and other discussions leading up to the International Labour Conference in 2011 (which adopted the ILO Convention on Domestic Workers).

Another project document from ILO's Dhaka office referred to supporting 'implementing partners and their network members on the issue of domestic workers' rights ... so that they can provide leadership in national consultations on protecting domestic workers' rights' (Akter 2010: 2).

Our review of official correspondence between the MLE and the DWRN indicates that the Ministry took the ILO's request on the convention quite seriously, taking into consideration the opinion of various stakeholders – including the DWRN and its member organisations. We also learnt that a group of international NGOs sent a letter dated 3 November 2010 to Prime Minister Sheikh Hasina, calling for her support for the forthcoming ILO Convention on Domestic Workers.² We are unsure of the extent to which these inputs from the ILO or international NGOs impacted on the domestic workers' policy formulation process in Bangladesh.

Our study shows that international NGOs, including STC Sweden and Denmark, Oxfam GB and Plan International, had also partnered with DWRN members to support action research and advocacy campaigns. Among the donor agencies, the UK Department for International Development (DFID) provided funding under its social and rights protection programmes, which complemented the DWRN's demands for a national policy (Interview with Jafrul Hasan Sharif, 9 August 2015).

The success of these organisations and donor agencies appeared to be limited to supporting the agenda for a domestic workers' policy. We also found that, despite pressure from the DWRN and the High Court's Directive in 2011, the government was still able to adopt a go-slow strategy by keeping its turf under control. In conclusion, the real locus of power was the Secretariat, where the MLE and other ministries are located and where Cabinet meetings take place. In the words of one parliamentarian, 'Bureaucrats are "permanent government". They control the policy process, and had successfully delayed the domestic workers' policy for a long time' (Interview with Israfil Alam, 29 July 2015).

Ideas

Several ideas influenced the policy process. First, the idea that a national policy should be adopted as a first step towards the amendment of the labour law was taken on board during the first meeting of the pro-worker advocacy coalition, the DWRN, with the Labour Secretary in January 2008. Since then, the DWRN has worked on drafting a domestic workers' policy, though always linking it with the long-term goal of the amendment of the labour law to include domestic workers in its legal coverage.

In its advocacy campaign, the DWRN advanced two major ideas: first, that domestic work is a profession and needs state recognition; second, that protecting domestic workers requires a broader approach that promotes their human as well as their labour rights. The human rights agenda was put forward by NGOs working with women and children and providing legal aid for this vulnerable group. On the other hand, the trade-union members of the DWRN focused on core labour-rights issues such as registration and unionisation, the work contract, the minimum wage, the abolition of child labour and the introduction of an inspection system etc. When the pro-employers' coalition, the BEF, was involved in the policy dialogue, it agreed on the rights-focused ideas in principle but questioned the viability of ideas and provisions related to registration and unionisation, a minimum age and wage, and inspections in private households.

Our interviews with several DWRN leaders indicate that they generated their ideas from baseline studies, media reports and interactions with peer organisations at home and abroad. For instance, the ILO-UNICEF baseline survey on child domestic labour in Bangladesh conducted in 2006 has been the most widely cited study, informing many of the ideas on domestic workers' employment conditions. Subsequent studies by the BILS (2009: 20) and ASK and STC (2010) have developed an important knowledge base by focusing on the issues of law and the protection of domestic service workers:

The present analysis indicates that domestic workers are one of the most unprotected and vulnerable working classes in the country. The existing laws do not cover the issue of domestic workers in the country and thus are unable to provide proper protection and security for them ... Domestic workers have very limited access, in many cases no access, to services for a decent living. Therefore, some actions have become necessary to ensure the rights and address the issue of domestic workers in the country.

The ASK and STC report (2010) also provides a similar explanation for generating knowledge on child domestic workers:

Since the CDWs live in the employers' houses away from their parents they are almost invisible and inaccessible to government inspectors, statisticians, NGO workers and even neighbours. Many CDWs face very exploitative treatment from their employers. As CDWs belong to the informal labour sector, they are excluded from legal protection, which makes them even more vulnerable (ASK and STC 2010: 17).

Human rights NGOs and trade delegates at the DWRN – including, for example, the DWRN's secretariat, the BILS – have also made extensive use of media reports to highlight domestic worker abuse and create moral panic on the issue. Almost all of the major daily newspapers in Bangladesh, including *Ittefaq*, *Prothom Alo*, *Kaler Kantha*, *Bhorek Kagaj*, *The Daily Star* and *New Age*, give coverage to reports on domestic worker abuse. Reports from some of these newspapers were also categorically mentioned in the High Court's judgement on domestic workers (Supreme Court of Bangladesh 2011). Some of the policy actors acknowledged the use of news clippings and media reviews made by the BILS. According to one trade-union leader, Wajed Ali Khan,

I am appalled by the media reports on abuse against domestic workers. I learn about these stories from the newspapers. Sometimes, I join DWRN committee members to meet a victim of domestic worker abuse. This gives me first-hand knowledge of domestic workers' lack of rights (Interview 25 May 2015).

When we asked senior DWRN leaders where they came up with the idea of working on issues concerning informal and unorganised domestic workers, some of them – including NDWWU leader Abul Hossain and NU leader Zakir Hossain – referred to their interactions with and visit to a prominent Indian trade union, the Self-Employed Women's Association (SEWA). SEWA was registered as a trade union in 1972, and its main goals are to ensure women's 'work security, income security, food security, and social security' (http://www.sewa.org/About_Us.asp). SEWA was described by both the NDWWU and the NU as an inspirational case that motivated their advocacy campaigns.

Another DWRN member, Nari Maitree (NM), stressed that the organisation had longstanding experience of conducting action research on domestic workers (Interview with Shaheen Akhtar Dolly, 29 April 2015). When concerns about the registration and skills training of domestic workers were raised during the TCC process, it was opined by employers' delegates that such provisions would impose additional burdens on the employers. NM, not being an integral member of the TCC core committee, shared information with the committee about its ongoing project, which revealed that many of the DWRN-proposed provisions on registration, wage cards and skills training were realistic and doable. NM's executive director claimed that:

We have run several projects on domestic workers. So we have a better idea about what their needs are, how they can be provided with education, training and skill enhancement techniques. Our ideas came not from any study reports but from our project experiences (Interview with Shaheen Akhtar Dolly, 29 April 2015).

During a consultation meeting with Labour Secretary Mikail Shipar on 21 October 2015, a month before the Domestic Workers' Policy was approved by the government, senior DWRN leaders insisted that a provision on implementation of the policy be included in the final draft of the policy. The proposed provision reads:

The government, in collaboration with the trade unions and human rights organisations, should take initiatives to implement the policy. During the implementation stage, the positive strategies adopted by various organisations, including the DWRN, the BNWLA, ASK, NM and Caritas, can be employed (DWRN 2015).

This last-minute attempt by the DWRN to include a provision on implementation demonstrated that it wanted to share its practical knowledge with the government in order to put policy words into action.

In contrast to the DWRN, which relied on a wide variety of sources to generate their ideas, BEF and MLE officials claimed that they were mainly driven by personal experience when declaring their policy positions. According to Saifuddin Ahmed of the BEF,

I haven't encountered any research study on the rights of domestic workers. But I have many anecdotal experiences which shaped my stance on the issue. For instance, one day one of my brother-in-law's domestic workers went missing. We looked for her for a couple of days. Later we learnt that she went back to her native village, quitting her job in urban areas. This just indicates that domestic workers want to leave their jobs without providing any formal notice. How come we then think about regulating their entry and exit from a job [and including such a provision in official policy]? It is simply unrealistic, both for the employers and for the workers (Interview 27 May 2015).

An anonymous government official also shared an important observation that showed how personal experiences weighed in the bureaucrats' position on the draft policy:

In all fairness, I would like to say that I have not come across any empirical study on domestic workers ... At the same time, you also have to understand that I employ a domestic worker. My mother-in-law has sent an orphan to work in my house. I know she (the domestic worker) comes from a very poor background. If I don't employ her simply because she is a child, she will be pushed to an uncertain future. This personal experience me tells that an age limit in the proposed DW policy would simply be unrealistic. This will create more unemployment and alienate middle-class employers as well as the poorer segments of society (Interview 2015).

Parliamentarians generated their ideas primarily from their interactions with the DWRN and from advocacy materials such as study reports, seminar briefs and flyers. During the 9th Parliament (2009–2014), the Parliamentary Standing Committee of the MLE also conducted public hearings which gave them useful ideas about employment conditions. When we asked MP Israfil Alam whether any particular idea played an important role in removing the blockages in the policy process in its final stage, he claimed that being a member of parliamentary standing committees of both the MLE and the Ministry for Expatriates meant that he could push the idea that, unless Bangladesh adopted a policy for protecting the rights of domestic workers at home, it could not persuade the host countries receiving Bangladeshi migrant domestic workers to improve their labour standards (Interview 25 April 2016). He claimed that it was perhaps this idea that played an influential role in the adoption of the draft policy, when it was almost frozen at the MLE. Alam noted that his professional exchanges with the Refugee and Migratory Movements Research Unit (RMMRU), the Welfare Association of Repatriated Bangladeshis (WARBE) and the Bangladesh Ovibashi Mohila Sramik Association (BOMSA) had played an important role in linking the Bangladeshi domestic workers' policy issue with the rights of migrant domestic workers. A close look at media reports suggest that the RMMRU, WARBE and BOMSA are among the most proactive migrant-focused organisations which have engaged Alam in their policy advocacy campaigns (*Financial Express* 2014; Haque 2010).

Interests

Policy stakeholders were driven by a wide variety of interests, which eventually shaped their positions in the policy process. The trade-union organisations in the DWRN saw the domestic workers issue as an opportunity to expand labour-rights movements. They also predicted that having a national policy would strengthen their platform (the DWRN) and legitimise their demand for amendments to the labour law and ratification of the ILO Domestic Workers' Convention.

NDWWU Adviser Hossain clearly articulates here how the trade-union groups saw the benefits for them of the domestic workers' advocacy campaign:

Our interest lies in expanding the labour-rights movement. In this age of globalisation, with the shrinking of formal-sector trade unionism, we are worried about the prospect of a workers' movement in Bangladesh. Unless and until we include informal-sector workers into the process of trade unionism, there will be no job security for a large number of them ... the NDWWU and other like-minded trade unions will benefit from having a policy by engaging the domestic workers in union activities and by spreading

awareness among them. In contrast, our organisation will lose its drive and enthusiasm if a DW policy is not formulated (Interview 20 July 2015).

In contrast, a delay in the formulation of the policy would adversely affect the union's credibility and capacity to organise the workers. Wajedul Islam Khan, of SKOP, stressed that

[If the policy is formulated], we will gain by organising domestic workers. This means that, once the policy is formulated, we will then try to mobilise and organise domestic workers at the grassroots level and engage them in our trade-union platforms. [On the other hand], if the domestic workers' policy is delayed, SKOP and other trade unions will suffer a setback in expanding their unionist activities in the informal sector (Interview 25 May 2015).

Some of the rights groups were counting on the funding prospects and financial sustainability of their organisations as well. NM's chief executive, Shaheen Akhtar Dolly, was quite candid about this:

Once the policy is adopted, we will compete for more donor funding to implement new projects that target the welfare of domestic workers. We will also be able to work on monitoring employers' compliance with the domestic workers' policy (Interview 29 April 2015).

Dolly also noted that, instead of seeking any direct economic benefits for herself, she and her organisation were driven by an institutional interest in promoting the rights of marginalised women and children, who often lacked the agency and the voice to demand a policy change. She added that NM had an interest in pushing the policy process since they wanted to scale up their advocacy campaign once the DWPWP was approved:

It has always been our interest to work on the rights of women and children [who constitute the largest share of domestic workers]. If the rights of women and children [working as domestic workers] are protected through a national policy, it will boost our advocacy campaign and give us renewed energy to scale up our efforts toward the promotion of DWs' rights (Interview with Shaheen Akhtar Dolly, 29 April 2015).

BEF delegates claimed that they were more concerned about ensuring the availability of domestic workers without any additional financial burdens for the employers, which is why they opposed any provisions related to registration, a fixed minimum wage and restrictions on the recruitment of cheap child labour. They also resisted any attempt to introduce unionisation rights for domestic caregivers, fearing that traditional trade-union activities would paralyse domestic caregiving services. BEF's Labour Advisor Saifuddin Ahmed offered this explanation:

There is a provision on 'Registration' in the draft Domestic Workers' Protection and Welfare Policy. We wanted to go slow on the registration issue in local government bodies. [This is because] we want a policy, but not with provisions such as registration and a minimum wage. [On educational provisions for domestic workers], employers can't deal with their children's education. Who will take responsibility for taking

domestic workers to school? Registration would make DWs vulnerable to exploitation by trade unions.

MLE officials also thought that middle-class employers in both rural and urban areas might find it difficult to comply with some of the provisions related to wages, working hours and reasonable accommodation for live-in caregivers. If included, such provisions – especially those on age limits and a minimum wage – could prove detrimental to prospective recruits desperately seeking a caregiver’s position, even in exchange for non-monetary benefits such as food, shelter, clothing and in-kind support. In sum, from the MLE’s perspective, both prospective employers and job-seekers might lose out from some provisions in the draft DWs’ policy. Hence, a go-slow policy was followed to discuss, debate and fine-tune the draft DWPWP (Interview with Aminul Islam, 5 May 2015). Eventually, some of the more contentious provisions were dropped, as shown in Table 1.

This study has found that the MLE also had an interest in delaying the policy process. As a bureaucratic organisation, it is always the primary interest of the Ministry to ensure that policy formulation involves all the stakeholders and hears all their voices. The MLE also claimed that, because of its preoccupation with other issues such as the formulation of labour rules and amendment of the labour law, the domestic workers’ issue was delayed. The Ministry revived the DW policy in 2014, after finalising its amendment to the labour law in 2013, and completing the bulk of its implementation of Labour Rules (Interview with Aminul Islam, 5 May 2015). Trade unions and rights groups rejected outright the MLE’s claim. In the view of a leading trade-union representative, Wajed Ali Khan, ‘Given the fact that Ministry officials are also employers of domestic workers, it was virtually impossible for them to take a neutral position on the policymaking issue’ (Interview 25 April 2015).

Two major developments occurred prior to approval of the policy– the High Court’s Directive 2011 and the adoption of ILO Convention 189 on Domestic Workers. These two major documents were certainly effective in pushing through the policy process, but the ‘bureaucrats could still impede the policy process simply because they thought they would be adversely affected by a pro-people policy’ (Interview with Israfil Alam MP, 25 April 2016). Why then, did the DWRN agree on a compromise document which excluded many of their proposed provisions – such as the minimum wage, fixed working hours and the abolition of child workers? A senior DWRN official claimed that:

After years of negotiations with the government and employers’ representatives, we realised that anything is better than nothing. We also thought that the consensus document could still be useful in advancing our demand for labour law reform and ratification of ILO Convention 189 (Interview with Sultan Uddin Ahmed, 25 April 2016).

In sum, this section has shown that, among domestic institutions, the MLE impacted decisively on the policy process since it controlled the timing and agenda of the dialogue, and exercised a relative degree of autonomy in addressing pressure from the Parliamentary Standing Committee and the High Court. By contrast, among the international institutions, the ILO produced global standards and lobbied for their adoption. The DWRN and BEF competed against each other with their core policy beliefs and ideas: the DWRN wanted to bring domestic workers under a comprehensive policy framework, which was strongly resisted by

the BEF. A combination of both monetary and non-monetary incentives had driven these rival advocacy coalitions.

Conclusion and Policy Lessons

This study has explored how the policy process leading to the adoption of the Domestic Workers' Protection and Welfare Policy 2015 evolved in Bangladesh. It examined which stakeholders participated in the process and what role they played in supporting or rejecting the policy. Drawing on the 3-i framework, it looked at which institutions, ideas and interests influenced stakeholders' positions.

We have shown that the policy process evolved in several stages, of which five were significant:

- the pro-worker advocacy coalition, the DWRN, produced a Code of Conduct and presented it to the MLE in 2008 for further discussion and possible adoption;
- the MLE worked with its inner core committee and with the member organisations of the DWRN to fine-tune the policy draft – renamed the Domestic Workers' Protection and Welfare Policy 2010;
- the Ministry further revised and, in 2014, submitted the draft policy to an inter-ministerial consultation process to be vetted;
- once the various ministries had provided their feedback, the draft DWPWP was sent to the Tripartite Consultative Council's six-member core committee, in which the government, employers and workers had an equal number of representatives. Once the TCC core committee had sent in its comments, the draft was further revised prior to going before the Council of Ministers for Cabinet approval;
- finally, the Cabinet approved the DWPWP in December 2015.

A review of the DWPWP 2015 and its two earlier versions indicates that key stakeholders in the policy process were the pro-worker DWRN and its rival, the BEF. While the two groups converged on the need for a national policy, they diverged on several key provisions relating to worker registration, a fixed minimum wage, prohibition of the recruitment of children under 14 years, fixed working hours, educational facilities for workers and inspection mechanisms. The final policy document approved by the government indicates that the DWRN did not get everything it wanted but the BEF had to accept that the DWPWP 2015 would constitute a stepping stone towards the legal recognition of the profession of domestic worker.

The paper then discussed the key stakeholders – the DWRN, the BEF and the MLE – and their relative positions. Clearly, the DWRN and its constituent trade unions and NGOs wanted a comprehensive policy to prevent the exploitation of domestic workers and to promote their labour rights. By contrast, the BEF wanted a steady flow of domestic workers without any additional costs for the employers. Civilian bureaucrats at the MLE steered the policy process by following the formal rules and procedures.

This was succeeded by a discussion of policy history through the lens of the 3-i framework. As the line ministry for the policy process, the MLE was the most powerful and influential

institution. When the DWRN demanded that the Labour Act be amended to include domestic workers under its legal coverage, the MLE made it clear that this would be a lengthy process, and that a national policy should be the first step towards legal reform. The MLE also controlled policy development by selecting the stakeholders and adopting a 'go-slow' strategy. The Parliamentary Standing Committee of the MLE contributed to earlier drafts of the DWPWP but its influence was limited due to what an elected lawmaker termed, 'bureaucratic resistance'. International organisations such as the ILO and UNICEF created international norms and ideas and thus tried to influence the DWRN's advocacy campaigns, though their influence also had limited impact.

The DWRN came up with two major ideas: that domestic workers need state recognition and that a broader national policy should include both the human and the labour rights of such workers. The BEF agreed with the first idea but opposed the latter on the grounds that many of the proposed labour rights – including registration, a minimum wage and educational provision for workers – were simply unrealistic. The policy actors relied on a wide variety of sources to generate their ideas, which ranged from baseline surveys and media reports on the employment conditions of domestic workers, to expert opinions and personal anecdotes.

There was a clear difference between the interests of the various stakeholders. The trade unions wanted to expand their ability to organise informal-sector workers, whereas the NGOs wanted to scale up their advocacy campaign through a national policy. The BEF wanted to ensure that middle-class employers would not suffer from any provisions that would impose additional financial burdens on them. The final policy document, the DWPWP 2015, would certainly serve the interests of the DWRN by boosting their advocacy campaign and taking their push for labour law amendment to a new level. However, the BEF also managed to minimise any financial burden by successfully blocking all attempts to set up a minimum wage, fixed working hours and responsibility for the education of domestic workers.

Several policy lessons can be learned from the study findings:

- *Strength of trade unions and human rights NGOs.* The domestic workers' advocacy coalition reveals the strength of national trade unions and NGOs and their collective efforts in policy change. It also shows the strategy used by the two sub-groups in forming a common platform, while retaining their independence of action. The biggest success of the advocacy coalition has been in ensuring the increased visibility of domestic workers through mobilising protests against torture and other forms of abuse and enabling them to raise their collective voice in forums attended by policymakers. International organisations and donor agencies played an important role by generating global norms and providing funding support. This enhanced the capacity of NGOs and trade unions so that their opinions were taken into consideration by the government when drawing up the domestic workers' policy.
- *The MLE controls the policy process.* Policymaking involves a wide variety of stakeholders whose institutional influence, ideas and interests differed quite sharply and thus slowed down the policy formulation. Although a separation of power exists between the executive, legislative and judicial branches of the government, they often attempted to influence each other by representing a distinct institutional interest. This was evident in

the way in which the MLE of the executive branch dealt with pressure from Parliamentary Standing Committee members and the High Court's judgment by delaying development of the policy for four years.

- *The MLE adopted a 'go-slow' strategy.* There was no consensus on what caused the 'go-slow' strategy adopted by the MLE. The Ministry offered several explanations, as described earlier in the paper. The DWRN leaders rejected all excuses, arguing that the Ministry was preserving the rights of bureaucrats who themselves employed domestic workers and who feared the proposed policy would harm their own interests. While the delay in revising and moving the policy into the inter-ministerial vetting and tripartite consultation processes could also be caused by inefficiency, such delay reinforced the perception that bureaucrats represent a 'permanent government' who can veto any pro-people policy change which goes against their own interests (Interview with Israfil Alam, MP, 29 July 2015).
- *Bangladeshi migrant workers in foreign countries are not included in the policy.* Although the current policy only covers Bangladeshi citizens employed as domestic workers at home who are experiencing harsh conditions, it has neglected the exploitative work conditions in which Bangladeshi migrants operate in domestic service abroad. Concerns over the latter group of migrant workers were only raised very recently, when a parliamentarian with a trade-union background put forward the idea that, unless Bangladesh adopted a national policy for its domestic workers, it could not force host nations to improve their treatment of Bangladeshi workers. The extent to which international migrant workers' rights have had any measurable effect on the policy formulation process needs further investigation.
- *Action plan for the implementation of policy.* The core of any action plan to implement the Domestic Workers' Policy 2015 can involve several stages. These include promoting awareness campaigns among employers and workers, monitoring court cases against abusive practices and facilitating skills development programmes for domestic workers to enhance their employability in foreign markets. Once the current policy is put into practice, the rights-focused NGOs and trade-union bodies will be in a better position to push the government to amend the labour law and ratify ILO Convention 189.

In conclusion, the history of the Domestic Workers' Protection and Welfare Policy 2015 provides a useful basis for understanding policymaking dynamics in Bangladesh. In reconstructing a policy development story, we have mostly relied on archival documents stored by an advocacy coalition and on a select group of key informant interviews. In the absence of any minutes of inter-ministerial consultation and tripartite consultation council's meetings, we had to rely on the perspective of those present to learn about the stance taken by the various stakeholders. Further studies need to address this data deficiency, and test out the policy story narrated in this paper.

Notes

- 1 For instance, more than half a dozen NGOs, including delegates from ASK, the BNLA, the BLAST, Nagorik Sanghati, Karmajibi Nari, Nari Udyog Kendra, Nari Unnayan Shakti and Shaishab Bangladesh, participated in meetings held in 2008 at the MLE.

- 2 Letter addressed to Prime Minister Sheikh Hasina, Government of the People's Republic of Bangladesh, dated 3 November 2010 and signed by 26 international NGOs based in Bangladesh, Belgium, India, Indonesia, Nepal, the Philippines, Sri Lanka, Thailand, Hong Kong and Cambodia (in order of the signatures printed on the letter).

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Appendices

Appendix 1: Summary of the 'Draft' Domestic Workers' Policy 2015 (translated from Bengali by ASM Ali Ashraf)

1. **Context:** The draft policy should be considered as a primary step in the development of a comprehensive law for the protection and welfare of domestic workers.
2. **Introduction:** The Bangladesh Constitution provides adequate safeguard for the protection of workers' rights (Article 20), equality of all citizens (Article 27) and abolition of forced labour (Article 34). The Universal Declaration of Human Rights also speaks of the equality of human beings and of decent work labourers. The draft policy will provide a useful guideline for regulating the employment of domestic workers.
3. **Scope of coverage:** This draft policy will be applicable to any place where domestic workers are employed.
4. **Goals and objectives of the policy:** The central goal of the draft policy is to ensure the protection and welfare of, and decent work conditions for, domestic workers and to recognise domestic work as labour.
5. **Definition of key terms:** domestic work, domestic worker, employer, decent work.
6. **Institutional structure for the implementation of the policy:** The Ministry of Labour and Employment of the government of Bangladesh will coordinate the tasks for the implementation of this policy.
7. **Protection and welfare programmes for domestic workers:**
 - 7.1 *Wage determination and wage payment deadline:* Negotiated wage; to be paid by the first week of the second month.
 - 7.2 *Age restriction:* As per the Bangladesh Labour Law 2006.
 - 7.3 *Legal or verbal contract:* Written contract to be signed with the guardian. If verbal contract is agreed, a third party has to be present during negotiations.
 - 7.4 *Working hours, leave, rest and entertainment:* Working hours to be set in such a way as to ensure adequate time for leave, rest and entertainment.
 - 7.5 *Maternity benefits:* 16 weeks of maternity leave.
 - 7.6 *Skills training:* Interested domestic workers to be offered skills training opportunities at employer's home or at a public or private training institute.
 - 7.7 *Medical leave:* Sick domestic workers to be excused from work and given medical treatment at the employer's expense.
 - 7.8 *Religious freedom:* Domestic workers to be given the opportunity to observe their religious rites.
 - 7.9 *Compensation for accidents:* Employers will compensate workers for any accident that occurs at work.
 - 7.10 *Legal action against abuse:* Legal action to be taken against those who are accused of physical or verbal abuse and the sexual harassment of domestic workers.
 - 7.11 *Health check up:* Employers appointing domestic workers should submit them to a health check by registered physicians.
8. **Benefits from the Workers' Welfare Foundation:** The government will take steps to ensure that domestic workers have access to the Workers' Welfare Foundation.
9. **If the domestic worker leaves the workplace without any prior notification or is involved in crime:** The employer should report to the local police station, file a general diary and take appropriate legal action.

- 10. Monitoring cell:** The Ministry of Labour and Employment will form a central monitoring cell, which will work closely with cells established by city corporations, district offices and local government units.
- 11. Inspection:** An inspection team will conduct surveillance and monitoring and initiate appropriate steps to ensure compliance with the policy.
- 12. Responsibility of the government:** The government will publicise the domestic workers' policy, introduce a help-line system, promote awareness and motivational campaigns for the population as a whole and organise discussion forums for changing the mindset of the employers.
- 13. Responsibility of the employers:** Employers should treat domestic workers with respect, avoid committing physical or psychological abuse and comply with the provisions in the draft policy.
- 14. Responsibility of the domestic workers:** Domestic workers should earn the trust of their employers, take care of the household in the absence of the employers and avoid any unethical activities. They should take care of the children, the elderly and the sick and see to any special needs of members of the family.
- 15. Grievance mechanism:** Any breaching of the provisions in the draft policy by domestic workers or their employers should be reported to the government monitoring cell or agency concerned, or to any human-rights organisation or labour union either by phone or in writing.
- 16. Termination of employment:** One month's notice should be served before termination of the employment. If the employer wants an immediate termination of the worker, he or she should pay one month's salary.
- 17. Conclusion:** This policy should be used as a guideline to determine the terms and conditions for the employment of domestic workers, to ensure decent work conditions, wages and welfare for domestic workers and to promote better relations between employers and workers.

Appendix 2: Code of Conduct for Domestic Workers 2008

Pointers for Code of Conduct for Domestic Workers

The analysis on the law and practices suggest a number of core contents need to be included in the code of conduct for promotion of decent work for the domestic workers. These range from codes having responsibility for tripartite stakeholders. The following pointers extrapolated from DWRN developed code of conduct as well as consultations undertaken for this study provide the guidelines for required changes in the law and practices related to domestic workers in Bangladesh.

Responsibility of the Employer:

All employers will ensure following issues for the domestic workers:

1. Contract: **formal contract with the domestic workers and guardian, in the case of child domestic workers.**
2. Identity Card: **including name, photograph and other particulars.**
3. Registration: **from local government bodies or local police stations.**
4. Wage: **regular and monthly wage, not less than the Minimum Wage, fixed by the government.**
5. Working hour, leave and rest: **at least 8 hours at night and 4 hours during day-time for rest and sleeping, and including weekly and annual leave.**
6. Maternity Leave: **with full pay for 16 weeks.**
7. Education and training: **focusing on primary and religious education and developmental needs**
8. Treatment: **domestic workers should be sent back during illness without giving proper treatment.**
9. Compensation for accidents: **adequate compensation on the basis of the nature of accident and damage created by it.**

Responsibility of the Domestic Worker

1. Termination of job: **notice should be given to the employer prior to one month, at least, and the domestic worker would abide by all the rules mentioned in the contract.**

Responsibility of the Government

Government will ensure the following matters:

1. Registration: **government will entitle local government will the responsibility through a circular.**
2. Wage determination: **a minimum wage on monthly basis.**
3. Action against oppression: **any oppression against domestic workers would be considered under the Penal Code, Bangladesh Criminal Procedure Code (CrPC), and Women and Children Repression Prevention Act 2000 (amended in 2003).**
4. Inspection: **central and local monitoring system comprising of representatives of employers, workers, civil society and local government.**
5. Receiving complain: **establishing a helpline**

Prohibition

1. **Employing children below 14 years of age in domestic work**
2. **Keeping domestic workers under lock and key**
3. **Engaging domestic workers in heavy and dangerous works inconsistent with their age and ability**
4. **Engaging domestic workers against their will and involving them in immoral activities**

Source: BILS (2009: 15–16).

Appendix 3: Required Changes for Domestic Workers in Bangladesh Labour Law 2006 (proposed by DWRN)

Bangladesh Labour Act, 2006 applies to the whole of Bangladesh and to the 'Establishment(s)' as defined in the Act. Under the Act, 'establishment' means any shop, commercial establishment, industrial establishment or premises in which workers are employed for the purpose of carrying on any industry. Generally, the services of the workers employed in any establishments are regulated by this Act.

Bangladesh Labour Act, 2006 (Section 1 (4) (o) of the Act) has, however, excluded, domestic workers from the purview of this Act. As a result all domestic workers, even employed in an establishment, are unable to avail themselves of the protection of this Act.

Now it is being suggested that 'domestic workers' should be brought within the ambit of the Labour Law. As Bangladesh Labour Act, 2006 deals in relation to the workers employed in establishments, deletion of section 1 (4) (o) of the Act would bring the domestic workers employed in establishments within the purview of this Act. In such an event domestic workers in establishments shall be considered as workers and shall be able to enjoy the protection of the Bangladesh Labour Act, 2006.

But only that amendment /deletion will not bring millions of domestic workers of the county employed by individuals privately under jurisdiction of the Act.

To bring those domestic workers under the protection of the law, a separate Act may be enacted to provide privileges in the area of wages, working conditions, working hours, overtime work, rest, social security etc. Alternatively a separate chapter in the Bangladesh Labour Act, 2006 may be added which will exclusively deal with the matters of domestic workers employed both by the establishment and private individuals. Another option is to bring the following changes in the existing labour law 2006. During the consultation process for this study, it has however been clear that there exists no widely held consensus on which alternative mode of protection for trade union, human rights activists and labour law expert to continue discussion on finding the most suitable option as stated above for promotion of decent work for domestic workers.

Required Changes in Bangladesh Labour Law-2006

Chapter 1: Preliminary

7.6 Short title, commencement and application:

Sub Clause 2 (na) should be excluded

Should be added:

2. Definitions:

Clause 2 (10-kha) 'Domestic Worker' means the person work in a residence/residential house/flat/mass etc. Full time or per time or contact basis under contact on the following task:

- **Child care**
- **Cooking**
- **Cleaning the house & surrounding area**
- **Washing**
- **Take care old person or sick people**

Clause – 2 (31) 'Establishment': Any Residential home/house flat/mass etc. Full time/per time contract any were employed for such type home or premises will be treated as a establishment.

Clause 2 (32) 'Group of establish': Workers engaged in domestic work in home/premises will be treated as a group of establishment.

Clause 2(49-chaw) 'Employer' means Domestic Workers engaged in work under the disposal of head of the family.

Clause 2(65) 'Worker' after clerical work add or engaged for domestic work.

Chapter 2: Condition of Service and Employment

Clause 3(6) Condition of employment:

The Government circulates a Code of Conduct (COC) for domestic workers and that COC and every employers or responsible person will be abide by the COC.

The Domestic Workers will be divided in three category

- i) **Full time**

ii) **Per time**

iii) **Contact**

Clause 4(11) If any domestic workers stay in the employers residential house at night than he/she will be treated full time workers.

Clause 4(12) If any domestic workers does not stay in the employers residential house at night but engaged in time contract than he/she will be treated as a per time workers.

Clause 4(13) If any domestic workers does not stay in the employers residential house at night but engaged on volume of work than he/she will be treated contact workers.

Clause 5(2) Every employer of domestic workers after employment will deposit bio data along with picture in the local domestic workers registration office.

Clause 6(1) After the registration the registration authority will be provide a service book to the domestic workers.

Chapter 4: Maternity Benefit

Clause 46(1) Right to and liability for payment of maternity benefit:

In the maternity provision of full time domestic workers at list work in 6 month prior or after the delivery of 8 weeks she stayed in employers house in provided medical care to the mother and child by the employer, in that case payment of her salary as usual.

Chapter 8: Welfare

Every employer provided safe accommodation and toilet facilities for full time domestic workers in the residence.

Chapter 9: Working Hours & Leave

Clause 105 (kha) Spread over:

Domestic workers working hour should be fixed in such way he/she can enjoy 4 hours rest for day time recreation and 8 hours for sleep and rest at night.

Chapter 10: Wages & Payment

Clause 124(2) Wages to be paid in currency note:

Getting food or other presentation will not be exchange in lue of wages.

Chapter 11: Wages Boards

Minimum wage board consider/take in account domestic workers residence, food, clothing at the time of fixing minimum wage.

Clause 149 (3) Prohibition to pay wages at a rate below the minimum rate of wages:

Chapter 12: Workers Compensation for Injury by Accident

Clause 150(8) Employers liability for compensation: The Fourth Schedule

(32) Add persons engaged in domestic work.

Chapter 13: Trade Unions & Industrial Relations

Clause 183(3) Registration of Trade Unions in a group of establishment:

Add domestic workers engaged such home/house flat/mass.

Chapter 19: Penalty & Procedure

Penalty for violation of Code of Conduct and illegal and inhuman 49ehaviour against domestic workers.

Chapter 20: Administration, Inspection, etc

Clause 319 Powers of Chief Inspector, etc:

Chief Inspector jurisdiction and responsibility (1-ka) Add employ in domestic workers.

Pointers for Impleentation Procedure for Promotion of Decent Work

There must be some established procedures for the implementation of the law relating to the domestic workers. The law implementation process should encompass the following important components:

7.7 Registration Authority:

A registration authority must be established to provide registration to the domestic workers. This authority to register the domestic workers could be vested to the local police station or local government body.

b. Inspection Mechanism:

The nature of work as well as work-place of the domestic workers is different from that of industrial and other formal settings. Thus the conventional inspection system could bring little or no fruit in the field of domestic work. Keeping this reality into account the inspection mechanism would consider the following steps:

- A central monitoring and inspection cell should be established under the ministry of labour and this cell will monitor and inspect, where necessary, the domestic work situation in the country;
- Community based inspection team, for a particular locality, should be formed under the monitoring and inspection cell to inspect the households;
- A community based inspection team would be comprised of representatives from the local government body including female members of local government institutions, registration authority, employer, domestic worker, and civil society; and
- This team will inspect the household, where domestic workers are working, on regular basis and report to the cell.

c. Dispute settlement:

Considering the distinct nature of domestic work, as mentioned above, the dispute settlement procedure would involve following steps:

- Disputes should be reported to the registration authority or local government body.
- Local government body and registration authority would fix a particular committee and place where disputes should be reported.
- The committee formed by local government body and registration authority would be entitled to settle the disputes. Effective collaboration must be established between these two bodies in this regard.

Concluding Remarks

The present analysis indicates that domestic workers are one of the most unprotected and vulnerable working class in the country. The existing laws do not cover the issues of the domestic workers in the country and thus are unable to provide proper protection and security to them. On the other hand domestic workers are not getting much benefit from the programmes undertaken by different stakeholders. Domestic workers have very limited access, in many cases no access, to services for a decent living. Therefore, some actions have become necessary to ensure the rights and addressing the issues of the domestic workers in the country.

Actions to be taken:

- Domestic workers must be recognized as labour and they should be brought under the purview of national law.
- Domestic workers must be provided with a minimum standard of living comprising of minimum wage, proper accommodation, health and medical facilities, and recreation;
- Skill development training should be introduced by Gos and NGOs for the domestic workers focusing on their developmental needs;
- Access to the existing social security schemes must be ensured as well as new scheme under social safety net, exclusively for domestic workers, should be introduced ;
- Proper monitoring and inspection system should be developed;
- Local government bodies should perform important role in mobilizing the issue;
- Trade unions must move forward with the issues of domestic workers as important trade union agenda in the country; and
- Strong GO-NGO collaboration must be established to ensure the security and welfare of the domestic workers.

Source: Bangladesh Institute of Labour Studies (BILS). 2009. *Ensuring Decent Work for the Domestic Workers: An Analysis of Law and Practice in Bangladesh*. Dhaka: BILS, pp. 16-21.

Appendix 4: List of Interviewees

| Interviewee | Designation | Institutional Affiliation |
|-----------------------------|---------------------------------|--|
| 1. Israfil Alam, MP | Former chair and current member | Parliamentary Standing Committee of the Ministry of Labour and Employment |
| 2. Aminul Islam | Deputy Secretary | Ministry of Labour and Employment, Government of the People's Republic of Bangladesh |
| 3. Saifuddin Ahmed | Labour Advisor | Bangladesh Employers' Federation (BEF); Former Senior Official, Labour Ministry |
| 4. Anonymous | Senior Official | International Labour Organization (ILO) Dhaka Office |
| 5. Abul Hossain | Founder & Advisor | National Domestic Women Workers Union (NDWWU) |
| 6. Wajedul Islam Khan | General Secretary | Coordinator, Sramik Karmachari Oika Parisad (SKOP) and General Secretary, Trade Union Centre |
| 7. Syed Sultan Uddin Ahmmed | Coordinator | Domestic Workers Rights Network (DWRN) |
| 8. Shaheen Akhter Dolly | Executive Director | Nari Maitree (NM) |
| 9. Zakir Hossain | Chief Executive | Nagorik Uddyog (NU) |
| 10. Prof. Atiqur Rahman | Professor | Institute of Social Welfare, Dhaka University, Founding member, DWRN |
| 11. Nazrul Islam | Advocacy Officer | Bangladesh Institute of Labour Studies |
| 12. Rafika Khan | Project Coordinator | Nari Maitree (NM) |
| 13. Jafrul Hossain | Programme Manager | Manusher Jonno Foundation (MJF) |
| 14. Nazma Yesmin | Member Secretary | Domestic Workers Rights Network (DWRN) |
| 15. Salma Ali | Executive Director | Bangladesh National Women Lawyers Association (BNWLA) |

Appendix 5: List of DWRN Members (as of 2015)

| Name of Organisation | Type of organisation | Founding members | Joined DWRN |
|--|----------------------|------------------|-------------|
| 1. Ain-O-Shalish Kendra (ASK) | NGO | Yes | 2006 |
| 2. Bangladesh National Women Lawyers Association (BNWLA) | NGO | Yes | 2006 |
| 3. Kormojibi Nari | NGO | Yes | 2006 |
| 4. Bangladesh Legal Aid and Services Trust (BLAST) | NGO | Yes | 2006 |
| 5. Surovi | NGO | Yes | 2006 |
| 6. Democracywatch | NGO | Yes | 2006 |
| 7. Nagorik Uddyog (NU) | NGO | Yes | 2006 |
| 8. Domestic Workers Association Bangladesh | NGO | Yes | 2006 |
| 9. Nari Maitree (NM) | NGO | | 2012 |
| 10. Plan International Bangladesh | NGO | | 2012 |
| 11. Caritas | NGO | | 2013 |
| 12. Awaj Foundation | NGO | | 2014 |
| 13. Jatiya Garhosto Nari Sramik Union (NDWWU) | Trade Union | Yes | 2006 |
| 14. Jatiya Sramik Federation | Trade Union | Yes | 2006 |
| 15. Bangladesh Jatiytabadi Sramik Dal | Trade Union | Yes | 2006 |
| 16. Jatiya Sramik League | Trade Union | Yes | 2006 |
| 17. Bangladesh Trade Union Kendra | Trade Union | Yes | 2006 |
| 18. Bangladesh Free Trade Union Congress-BFTUC | Trade Union | Yes | 2006 |
| 19. Bangladesh Mukto Sramik Federation -BMSF | Trade Union | Yes | 2006 |
| 20. Jatiya Sramik Jote-Bangladesh | Trade Union | Yes | 2006 |
| 21. Jatiya Sramik Jote | Trade Union | Yes | 2006 |
| 22. Bangladesh Jatiya Sramik Federation | Trade Union | Yes | 2006 |
| 23. Bangladesh Sramik Federation | Trade Union | Yes | 2006 |
| 24. Jatiya Sramik Federation Bangladesh (JSFB) | Trade Union | | 2008 |
| 25. Bangladesh Labour Federation (BLF) | Trade Union | | 2013 |

Appendix 6: High Court Judgment (2011) on Domestic Workers' Policy

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)
WRIT PETITION NO.3598 OF 2010

IN THE MATTER OF:
An application under Article 102 of the Constitution of
the People's Republic of Bangladesh.

AND

IN THE MATTER OF:
Bangladesh National Women Lawyers Association
(BNWLA), represented by its Vice-President, Fahima
NasrinPetitioner

-VERSUS-

The Cabinet Division, Represented by Cabinet
Secretary, Bangladesh Secretariat, Dhaka and others

..... Respondents

Ms. Fahima Nasrin, AdvocateFor the petitioner
Mr. Md. Motaher Hossain, Deputy Attorney General
with Mr. Samarendra Nath Biswas, Assistant
Attorney General with Mr. Md. Jahangir Alam,
Assistant Attorney GeneralFor the respondent No.3

Present:

Mr. Justice Md. Imman Ali
And
Mr. Justice Sheikh Hassan Arif

Heard on: 02.02.2011

Judgment on: 09.02.2011 & 15.02.2011

Md. Imman Ali, J.

By this application under Article 102 of the Constitution the plight of child domestic workers has been brought to our notice by BNWLA, which is an established and reputed organization of women lawyers, who deal with empowerment of women and welfare of children, and protection of their rights. An incident of physical violence against a child domestic worker has been highlighted as reported in the daily national newspaper Amar Desh on 03.05.2010 (Annexure-A to the writ petition) ...

... We note that within the Bangladesh Code (a compilation of laws in Bangladesh) there exists "The Domestic Servants' Registration Ordinance, 1961" which required all persons rendering domestic services within Kotwali, Sutrapur, Ramna and Tejgaon police stations of Dhaka district to report for registration with the Officer-in-charge of the respective police station within 15 days of taking up such employment. We are not aware whether that law was actually brought into force. However, it is obvious that the need for registration was felt even at that time.

The present scenario, as apparent from the above discussion, makes it imperative to put in place a system of registration and monitoring of all persons engaging in domestic work. Inclusion of the domestic workers within the definition of 'worker' in the Labour Act will ensure that the workers in the domestic sector enjoy all the benefits within the labour laws. Only then will the mandate of the Constitution be fulfilled.

In the above facts and circumstances, we hereby direct the government as follows:

1. In order to make the provision and concept of compulsory primary education to be meaningful, we direct the government to take immediate steps to prohibit employment of children up to the age of 12 from any type of employment, including employment in the domestic sector, particularly with the view to ensuring that children up to the age of 12 attend school and obtain the basic education which is necessary as a foundation for their future life.
2. Education/training of domestic workers aged between 13 and 18 must be ensured by the employers either by allowing them to attend educational or vocational training institutes or by alternative domestic arrangements suitable to the concerned worker.
3. We urge the government to implement the provisions mentioned in the National Elimination of Child Labour Policy 2010 published in the gazette dated 08.04.2010. In particular, we strongly recommend the establishment of a focal Ministry/focal point, Child Labour Unit and National Child Labour Welfare Council in order to ensure implementation of the policies as mentioned in the Policy, 2010.
4. We direct the government to include domestic workers within the definition of "worker" in the Labour Act, 2006 and also to implement all the beneficial provisions of the draft of the Domestic Workers Protection and Welfare Policy 2010 as announced by the government.
5. The cases relating to the violence upon the domestic workers must be monitored and prosecution of the perpetrators must be ensured by the government. We note with dismay the disinterested and sometimes motivated way in which the prosecution conducts the investigation and trial procedure resulting in the perpetrators being acquitted or discharged or even remaining untouched due to the high position, which they hold in the society. The government has a duty to protect all citizens of this country, be they rich or poor. It must not be forgotten that the domestic workers come from a poverty-stricken background and deserve all the more protection from the government and the authorities setup by the government.
6. In order to prevent trafficking, in particular, and also to maintain a track on the movement of young children from the villages to the urban areas, parents must be required to register at the local Union Parishad the name and address of the person to whom the child is being sent for the purpose of employment. The Chairman of the Union

Parishad must be required to maintain a register with the details of any children of his union who are sent away from the locality for the purpose of being engaged in any employment. If any middleman is involved, then his/her name and other details must be entered in the register.

7. Government is directed to ensure mandatory registration of all domestic workers by all employers engaging in their household any child or other domestic worker and to maintain an effective system through the respective local government units such as Pourashava or Municipal Corporations in all towns and cities for tracking down each and every change of employment or transfer of all the registered domestic workers from one house-hold to another.
8. Government should take steps to promulgate law making it mandatory for the employers to ensure health check up of domestic workers at least once in every two months.
9. The legal framework must be strengthened in order to ensure all the benefits of regulated working hours, rest, recreation, home-visits, salary etc. of all domestic workers.
10. Laws must also ensure proper medical treatment and compensation by the employers for all domestic-workers, who suffer any illness, injury or fatality during the course of their employment or as a result of it.

With the above observations, recommendations and directions, the Rule is made absolute, without any order as to costs.

Before parting we wish to note our appreciation to BNWLA for bringing this very important aspect of our society to the attention of this Court. We also appreciate the invaluable assistance rendered by learned advocate Ms. Fahima Nasrin and the learned DAG Mr. Md. Motaher Hossain.

Let a copy of this judgment be communicated to the Ministry of Women and Children Affairs, Ministry of Labour, Ministry of Education and Ministry of Local Government and Rural Development at once.

Sheikh Hassan Arif, J.

I agree

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Source: Bangladesh Legal Aid Services Trust (BLAST).

<http://www.blast.org.bd/content/judgement/WP-No-3598-of-2010.pdf>, last accessed 23 July 2016.

Appendix 7. TCC Core Committee on Domestic Workers Protection and Welfare Policy

- **Two delegates from the government (Ministry of Labour and Employment)**
 - Khandaker Mostan Hossain, **Joint Secretary**
 - Mr. Aminul Islam, **Deputy Secretary**

- **Two delegates from labour organisations/trade unions**
 - Shukkur Mahmud, **President, Jatiya Sramik League**
 - Dr. Wajedul Islam Khan, **Bangladesh Trade Union Center**

- **Two delegates from employers' associations**
 - Faruk Ahmed, **Employers' Federation**
 - Kazi Saif Uddin Ahmed, **Labour Advisor to Employers' Federation**

About the Migrating out of Poverty Research Programme Consortium

Migrating out of Poverty is a research programme consortium (RPC) funded by the UK's Department for International Development (DFID). It focuses on the relationship between migration and poverty – especially migration within countries and regions – and is located in five regions across Asia and Africa. The main goal of **Migrating out of Poverty** is to provide robust evidence on the drivers and impacts of migration in order to contribute to improving policies affecting the lives and well-being of impoverished migrants, their communities and their countries, through a programme of innovative research, capacity building and policy engagement. The RPC will also conduct analysis in order to understand the migration policy process in developing regions and will supplement the world-renowned migration databases at the University of Sussex with data on internal migration.

The **Migrating out of Poverty** consortium is coordinated by the University of Sussex, and led by CEO Professor L. Alan Winters, with Dr Priya Deshingkar as the Research Director. Core partners are: the Refugee and Migratory Movements Research Unit (RMMRU) in Bangladesh; the Centre for Migration Studies (CMS) at the University of Ghana; the Asia Research Institute (ARI) at the National University of Singapore; the African Centre for Migration & Society (ACMS) at the University of the Witwatersrand in South Africa; and the African Migration and Development Policy Centre (AMADPOC) in Kenya.

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