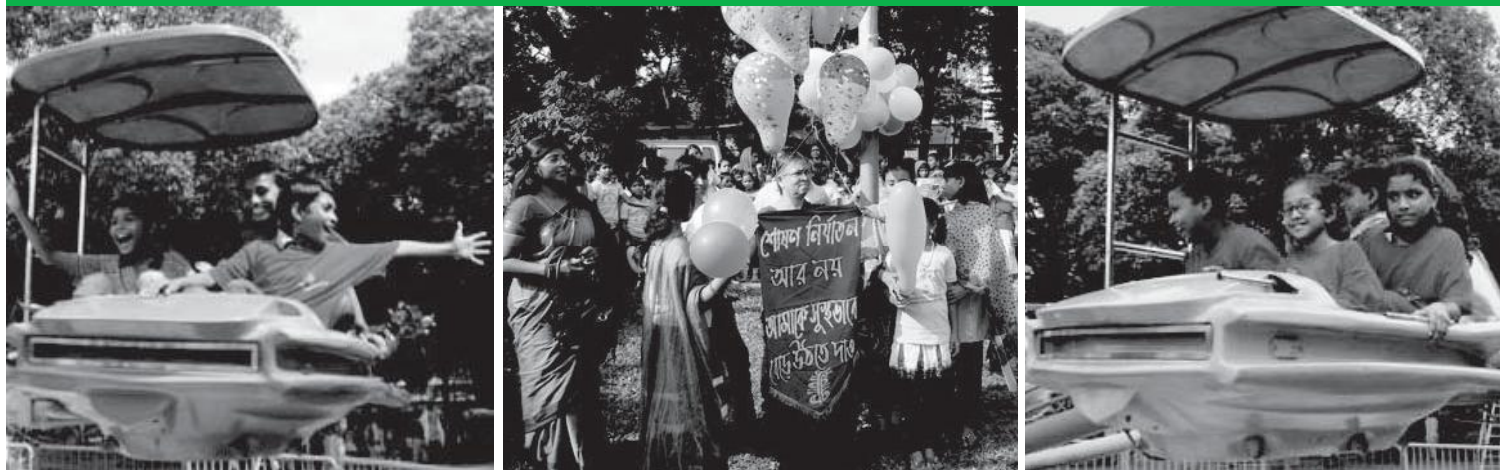


# In Defence of Children's Rights



On December 5 2012, ASK's educationists and social workers took 400 working children enrolled in twelve of its Drop in Centres for a "Day Off" at the Shishu Park. The children enjoyed the day singing, dancing and participating in different games and competitions. Rahmat a 23 year old graduate of a Drop in Centre laughed and said: "I was one of them. I first went to the Drop in Centre at the age of seven and now I am an intern with ASK's Finance Unit." His story raises hopes for working children.

This was one of the programs organised by ASK's Child Rights Unit (CRU) in support of working children. Following its research into the lives of children in different types of employment,<sup>1</sup> ASK has maintained a program of health care, education and legal protection (HELP) for working children since 1990. ASK provides legal protection, psycho-social counseling and rehabilitation services in case of child abuse.

ASK has developed a creative, child centered learning methodology for literacy and numeracy in its non-formal and flexible *Jokhon Tokhon Shika* (any time learning) program offered at 47 Drop in Centres (DICs). Twelve of these are open full-time, of which six have added vocational training. Thirty five are for domestic workers only.

The DICs cater to a mix of child workers, including domestic help, rag pickers, hawkers, transport workers etc. Through workshops based on a learning manual *My World*<sup>2</sup> published by ASK and theatre children learn about reproductive rights, health issues, safety, personal integrity, and other child rights. These sessions develop interpersonal skills and help children make informed decisions, think critically and creatively, build healthy relationships and manage their lives. The DICs also house a mini-library and working children who go to the DICs in their free time are provided lunch.

Over 14,000 working children (5,224 boys, 9,261 girls) across the country have attended ASK's Drop in

Centres and found it safe a place to learn, play, rest and express themselves freely. In 2012, 1,656 working children were trained in different vocational skills; 69 children received legal support, of which 57 received legal counseling while twelve complaints were resolved through litigation and mediation. 763 children (316 boys and 447 girls) were enrolled into mainstream schools from DICs.

Extra-curricular activities organized by the DIC in 2012 included a three-day Art Exhibition at the Bengal Gallery of Fine Arts where 101 drawings by working children using water color, pastels and other media were on display. Their artworks depicting the language movement of 1952, urban and rural life, village fairs, etc. was attended by eminent artist Hashem Khan and Ms. Birgit Lundbak, Programme Director, Save the Children and Subir Chowdhury, Director of Bengal Foundation. The paintings sold at the exhibition generated a total of Tk. 50,000. Hand-painted greeting cards and calendars made by the children were sold for a total of Tk. 25,000. These sums were distributed to the child artists. DIC children also contributed poems, fiction and other creative writing to the National Wall Magazine Festival. Special events were arranged to celebrate International Mother Language day, Independence Day, Bangla New Year, Child Labour Elimination Day, Victory day etc. Many children participated in cultural program and sports as well as in excursions and educational trips.

1. K.E. Ahmed, *Where Children are Adults*, ASK, 1990.

2. *Ibid.*, *My World*, ASK, 1998 (Bangla trans. Nizam, Roushan Jahan, Naushaba Sharafi).



ASK's Drop-In-Centres offer working children the opportunity to learn, play, rest and participate in various extra curricular activities such as art competitions and exhibitions, field visits etc.

ASK campaigns for the abolition for child labour and for children to access opportunities for development. However, given the existing situation in Bangladesh where, according to an ILO survey (2003), 7.4 million children between 5 -17 years of age were engaged in child labour of which 1.3 were in hazardous forms of work (in construction, rickshaw pulling, tobacco factories and tanneries), ASK's strategy has been to enhance opportunities for working children through innovative methodologies of learning, to expand their knowledge and capabilities and to create an awareness of children's rights.

### Drop in Centers (DICs) as of 2012

Description	No.
Total Number of DICs	47
Full Time DICs	12
Part Time DICs	35

## Protecting Children from Exploitation and Abuse

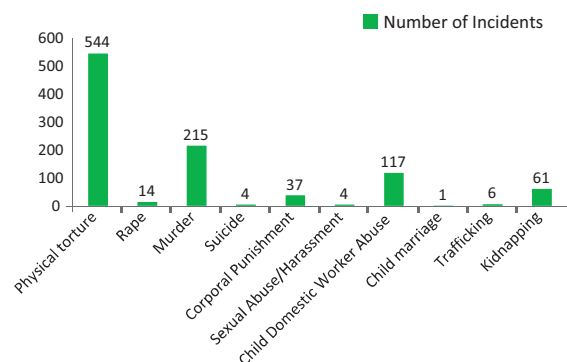
ASK has actively campaigned for legal and policy reforms to safeguard the rights of all children, particularly those in abusive situations. It has participated in consultative policy workshops and in preparation of reports for national and international forums.

Social and economic pressures combined with children's inability to articulate or resist violations expose working children to abuses in different labour situations. ASK's Documentation Unit has compiled monthly reports of incidents of violence on children from ten national newspapers. In 2012, ASK's Child Rights Unit found 868 cases of violence on children reported in the media. These included 544 cases of physical torture, 205 murders, 91 instances of abuse of child domestic workers, 61 kidnappings and 37 instances of corporal punishment (Figure 1).

The Mediation and Litigation Units provide legal support to child workers enrolled in the DIC. Some of them confide in the DIC educationist, sometimes the child's mother complains at a corresponding Legal Clinic

run by the Legal Aid Units. As in previous years lawyers have mediated their disputes, filed complaints in court or taken up class action.

Table 4: Reports of Child Rights Violations in 2012



Source: ASK Documentation Unit

## Child Domestic Workers

Employment of children for domestic work is quite common in Bangladesh. ASK's report on Human Rights in Bangladesh 2010 found that 80% of children engaged in domestic work were under fourteen years. Their parents could not afford to look after them. They hoped that their children would be secure in their employers' homes and better fed and clothed. In reality child domestic workers' mobility is severely restricted by employers, they are vulnerable to sexual abuse and often to brutal violence for trivial incidents or accidents. Fear of repercussions or false accusations by employers deters legal action. In 2012, only 91 cases were filed out of 117 media reports on violence on child domestic workers (including rape, killing, physical torture, suicide, etc.). The exclusion of domestic work from The Labour Act 2009 and the National Child Labour Elimination Policy makes them particularly vulnerable to exploitation and abuse. (Table 4 shows the types of violence reported in 2012 against child domestic workers).

In 2012, ASK rescued six child domestic workers, between 8 and 14 years of age, from their employers' homes. One of them, twelve year old Mita (not real name) was brought to Dhaka by her father, a household guard and put to work in another house. Compared to other employers, Mita's employer was good to her and agreed to let her attend ASK's Drop in Centre. Within a year and a half Mita completed courses in basic and general education. Her employer then allowed her to take a six-month vocational training in tailoring and block printing. She lived happily there until the employer's brother, aged over 50 years, came to visit them. Mita found his behaviour towards her strange and suspicious. At ASK's workshop on reproductive health she had learned about 'good touch' and 'bad touch,' and she was able to identify the man's behaviour as a 'bad touch.' She tried her best to avoid him without informing anyone but one night the man attempted to rape her. Mita screamed, raising a commotion at which he ran away. She reported this to an adult domestic worker in the house who told her employer. The employer refused to believe her and became angry, threatening to send her back to her village.

Mita shared her experience with an ASK staff who discussed the matter with her employer and also informed her father. As a result the employer understood what had happened and promised to watch out for Mita's well being. However, after consulting with an ASK lawyer, her father took her back to the village and requested ASK to provide a sewing machine so



Child Domestic Workers are subject to severe restrictions imposed by employers, they are vulnerable to sexual abuse and often suffer brutal violence for trivial incidents or accidents.

that his daughter could practice her vocational skills in the village. He also promised that he would enroll Mita in a school. ASK gave her a sewing machine with which she is now able to earn and learn.

The absence of legal protection for domestic workers allows for an alarming incidence of abuse. Since their work is unregulated, they are forced to work long hours in poor conditions and are vulnerable to psychological and sexual assaults leading sometimes to permanent disabilities and even death. Given their isolation they are unable to seek redress. ASK and other human rights organizations have campaigned to include protective laws for domestic workers in the Bangladesh Labour Act 2006.

Another domestic worker, eight-year-old Mukta was brought by her father Mujibor to a house in Gulshan, Dhaka to work as a domestic help in January, 2012. Mukta's employers imposed severe restrictions on her, not allowing her to communicate with anyone including her father and subjecting her to regular beatings. When Mukta's father came to know of this he tried twice to bring Mukta back but her employers verbally assaulted and threatened him and refused to release her. On 8 March 2012, after Mukta's father sought ASK's assistance the Litigation Unit lodged a GD at the local police station, rescued her from the employer's house and handed her over to her father.

In 2012, ASK's Child Rights and Advocacy Units drafted a Bill under the title "Domestic Workers Protection and Registration Act" to provide protection to child domestic workers against abuse. <sup>3</sup>

3. This Convention was arranged in cooperation with Save the Children Fund.



**Table 4: Types of violence against child domestic workers in 2012**

Type of Violence	Age 7-12	Age 13-18	Age Not Mentioned	Total	Cases Filed
Physical Torture	22	24		46	35
Killing after Physical Torture (by Employers)	3	17	-	20	20
Killed After Rape		3	2	5	5
Rape	3	1	3	7	7
Missing	2	3	2	7	
Death After Abortion		1		1	
Unknown Cause		7		7	7
Suicide	1	19	1	21	14
Unnatural Death		1	2	3	3
Total	31	76	10	117	91

Source: ASK Documentation Unit

ASK believes in the elimination of child labour, but until this takes place it has joined other organizations in demanding standard wages and working hours for child domestic workers and campaigning for the employers' responsibility for their education. ASK has also advocated for implementation of the National Child Labour Elimination Policy 2010 and urged the Government to ratify the ILO Convention Concerning Decent Work for Domestic Workers.

#### **Domestic Worker Protection And Registration Act**

ASK has campaigned for legislation for the protection of child domestic workers. A draft of the Domestic Workers' Registration And Protection Act 2012 was prepared jointly by ASK Child Rights and Advocacy Units. It proposed that every employer should register domestic workers with the Local Ward Commissioner. The draft specified a minimum age for domestic work, gave a definition of employer and domestic worker, identified work commensurate with the child's age and ability, and specified their working hours, obligation of employers and rights of children. This was to set standards for monitoring and supervision by the registering authority.

Since 2005 ASK has promoted a code of conduct based on ILO Conventions and UNCRC for employers of child domestic workers. Although the Government was, at first, indifferent to establishing a code, some of the recommendations have been incorporated in The National Child Labour Eradication Policy 2001.

The Child Rights Unit has referred individual complaints received at the Drop in Centre to both the Legal Aid and Mediation and Rapid Response Units. In 2012 Shirin Akhtar, a seven year old domestic worker

in Uttara, Dhaka, was regularly subjected to violence by her employers. One day Shirin left the house and was found on the streets by a person who took her to the local police station and reported her as 'lost'. The police station contacted ASK's Legal Aid Unit whose field worker found Shirin and saw that her ears were swollen from injury and she had fever. ASK staff took her to their shelter where she was treated. ASK offered to file a case against her employer but her father decided to accept a compensation of Tk. 10,000 for her treatment and Tk. 5000 as her remaining salary proposed by the employers. Shirin's employer gave ASK a written statement promising that no member of the family would ever again subject a domestic worker to physical torture. Shirin's father also gave a written promise to ASK never to send a child to work. Six months later when ASK's field worker visited Shirin, she found that she had been enrolled in the village school and was living with her father. ASK's strategy was instrumental in changing the employer's behaviour and the work environment.

#### **Hazardous Labour**

Lack of mechanisms to enforce child labour laws or monitor working conditions and insufficient public awareness about the negative effects of child labour has allowed the employment of children. Many children are employed in hazardous labour, such as tobacco and fish processing industries, sericulture, tanneries, construction, engineering workshops and transportation sectors. Although the Government has ratified ILO Convention No. 182 specifying a minimum age of 14 years for the employment of children, even five year olds are engaged in income-generating

activities. A majority of child workers drop out of school, work long hours and are paid less than adults for the same type of work.

In 2003 and 2004, two national dailies reported on 20,000 children employed at a *bidi* (cigarette) factory in the Haragach union of Rangpur district. ASK and Aparajeyo Bangladesh filed a Writ Petition No. 1234/2004, against the employment of children in hazardous industries such as *bidi* factories where unhygienic conditions lead to occupational diseases such as asthma, tuberculosis, bronchitis, etc. The petition also prayed for enforcement of the Factory Act 1965 to ensure safety in the workplace.

The High Court in 2010 gave the following directions:

The Labour and Employment Ministry to stop, within a year, the production of *Bidi* outside the factories and to end sub-contracts with child workers for home production.

The Parliament to amend the Labour Act 2006 with a provision for adequate compensation for child workers and punishment for breaching the rules.

The Government to pay cash incentives for enrolment of child workers in schools equivalent to wages lost by them.

## Sexual abuse, harassment, stalking and rape

ASK has extended support to child victims of rape, sexual assault and other forms of violence. ASK's Documentation Unit recorded that a large percentage of victims of rape were below 15 years. The CRU Unit refers complaints from victims of sexual abuse and their families to ASK's Legal Aid or Mediation Units for legal redress. The children can also access psycho-social support from ASK's counselors.

## Corporal Punishment in Educational Institutions

Corporal punishment is defined as the use of physical force intended to cause a degree of pain or discomfort. Most cases of corporal punishment of school children involve slapping or spanking with the hand or with the use of an implement (whip, stick, belt, shoe, etc.) but can also involve, for example, kicking, shaking or throwing children, scratching, pinching, pulling hair, burning, scalding or forcing ingestion, e.g. forcing children to swallow hot spices, etc.<sup>4</sup>

In Bangladesh, corporal punishment is quite common at home or in schools as a means for disciplining children. This culture of violence not only




In Bangladesh many children are employed in hazardous labour that includes working in tobacco and fish processing industries, sericulture, tanneries, construction, engineering workshops and transportation sectors.

stunts the physical of a child, it makes a lasting impact on their psychological well-being. Cruel and humiliating punishments meted out by teachers at schools is a reason for drop outs. Recent reports of brutal and inhuman types of punishment inflicted on very young students or differently abled and mentally challenged children have been particularly alarming.

In 2010, a spate of corporal punishments was reported. These included the suicide of a ten year old boy after he was severely beaten by his school teacher, chaining of a seven year old madrassah student for indiscipline, severe beating and caning resulting in hospitalization of children for failure to bring colouring pencils to school and beating of a differently abled girl student for failing to contribute to a school fund. In another incident, a student of Class IX was struck with a sandal in front of his class by his teacher for not being able to do his sums. His teacher was also the Chairman of the School Committee.

ASK and BLAST filed a Writ Petition No. 5684/2010 in July 2010 challenging the Government for its inaction against repeated and severe incidents of corporal punishment. On 30 October 2010 the High Court gave directives to the Government to ban caning, beating and chaining of students in schools. It directed the Education Ministry to immediately issue a circular

4. Committee on the Rights of the Child, General Comment No. 8, para.11.



instructing to all primary and secondary educational institutions to stop these practices and along with all education boards to report to the Court within two months on the measures taken to investigate, prosecute and punish the perpetrators of such incidents. It asked the Government to explain why such violence by Government employees or their failure to take effective measures for prevention or prosecution of those responsible for such corporal punishment should not be declared a violation of the right to freedom from cruel, degrading and inhuman treatment or punishment guaranteed under the Constitution. The Government was also asked to explain why it should not be directed to conduct training for all teachers, regular inspections and monitoring of schools and to disseminate information through the national media on the illegality of corporal punishments. In August 2010, the Ministry of Education issued a circular reinforcing the ban on physical punishment on school children.

In January 2011, a High Court judgment declared corporal punishment illegal and unconstitutional and banned its practice in educational institutions. In response to the Court directives the Education Ministry issued “Guidelines for the Prohibition of Corporal and Mental Punishment of Students in Educational Institutions 2011”, which came into effect in April 2011. An Education Bill was reported to have been drafted for adoption by the Parliament. The Supreme Court directed that laws relating to disciplinary action against teachers be amended to identify corporal punishment as “misconduct”.

In spite of these steps, incidents of corporal punishment have persisted due to absence of legal enforcement and customary tolerance of such practices. In a 2012 national study, 77.1% of students stated that physical, psychological or financial punishments were inflicted in their schools. Nearly half the parents (48.4%) interviewed said that these punishments happened in their children’s schools and just over a third (34.9%) of teachers interviewed said that they happened in the schools they worked in.<sup>5</sup> ASK received 31 complaints of incidents of corporal punishment in 2012 of which the majority took place in educational institutions. In all cases ASK issued letters to the institutions calling attention to the legal implications of these actions, provided trauma support to the victims through psycho-social counseling and health care services, where needed. ASK also provided training and counseling support to teachers to

### **Psycho-social Counseling**

In 2012, 141 teachers were trained in basic counseling skills, communication skills, assertiveness, conflict management, stress and burnout management. A participant of ASK’s psycho-social training and counseling course said: “I used to use corporal punishment in school. We have a departmental rule not to give punishment, but I could not control myself, and when I felt very angry with students I penalised them. After receiving Effective Communication and Basic Counseling training, I have learned about the psychological impact and realize that what I did to my students was wrong. After the training I promised myself to stop physical and psychological punishments.”

### **Student of Class I hit on his eye**

Imam Hossain Nasir, a primary school student of Class 1, had to be taken to an eye hospital when his teacher, Md. Alamin beat him with a stick causing severe injury to his eye. Nasir’s father informed that the teacher had beaten the children in his class with a stick because they were ‘creating chaos’. His son had been struck on his eye, which was bleeding. Nasir was taken to an eye specialist in his village and then referred for treatment in Dhaka. According to the Pathorghata Upazila Officer, even though they received the news of the incident they could not take any action without a written complaint. The teacher, Alamin said that he had not realized he could cause a serious injury and was willing to pay for Nasir’s treatment. ASK issued a letter to the Directorate of Primary Education Board reporting that notwithstanding the ban on all forms of corporal punishment, physical and mental torture was inflicted on children, and appropriate actions need to be taken to protect them.

### **Violation of Child Rights in Penal Settings**

Children, particularly those living on the streets or in slums are often driven towards crime and in conflict with the law due to poverty, neglect, lack of guidance and protection. These children are vulnerable to arrests and abuse by law enforcers and rarely receive any protection from the law. The legislation covering juvenile justice is inadequate, poorly enforced and provides few alternatives to confinement of children in contact with the law.<sup>6</sup> In 2004, the minimum age of

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5. Survey Report on Violence against Children in Education Institute Settings, BLAST & IID, 2012

6. *Justice for Children in Bangladesh*, UNICEF Bangladesh, 2010.



Children on the streets or in the slums in conflict with the law become vulnerable to arrests and abuse by law enforcers

criminal responsibility was fixed at nine years in Bangladesh in accordance with The Penal Code of 1860. But this was raised to twelve years in The Children Act 2013. This is one of the lowest in the world. Corporal punishment (whipping) is lawful in penal settings as a sentence for crime for males and the death penalty still applies to juvenile prisoners. Under the Code of Criminal Procedure 1898, boys under the age of 16 may be whipped “with a light rattan not less than half an inch in diameter” up to 15 “stripes”, older males up to 30 stripes (Article 392).

In spite of the existence of three correctional facilities - two in Gazipur and one in Jessore - children have often been detained along with adults in jails. Jail conditions are unhygienic and inadequate - congested spaces, insufficient food and beds, poor sanitation facilities – often leading to skin disorders, chronic diarrhoea, respiratory illness and dental decay. Physical abuse and violent interrogations at arrest or during detention lead to injuries and bruises. Incarceration with adults also exposes young people to the risk of sexual abuse in prison. Parents are commonly denied visitation rights and are often not informed of a child’s whereabouts.<sup>7</sup>

In 2007, ASK and BLAST filed a Writ Petition [13.01 2011] challenging the detention of 420 juvenile prisoners with adults in different jails in Bangladesh while three Correction Homes with accommodation capacity for 700 children had only 200 inmates. The High Court issued a Rule *Nisi* directing the respondents to take necessary steps to transfer the juveniles in jails to Juvenile Development Centres and to show cause as to why their detention should not be declared illegal and without any lawful authority. The petitioners made an application for immediate transfer of juvenile detainees in jail to Correction Homes, or for release in appropriate cases. On 17 July 2008, the Court ordered the respondents - Ministries of Home Affairs, Social Welfare, Department of Social Services and Inspector General of Prisons - to transfer juveniles to Correction Homes. This was done pursuant to the Court order. The case is pending for hearing.

Since 2007, some improvements have taken place. Children are not kept in jails with adults, instead child development centres have been set up with legal professionals trained in juvenile justice. However, many children continue to be tried in regular adult criminal courts, often without legal representation and have received sentence similar to those of adults. Of particular concern is the indefinite or extended period of detention and the application of life sentences or death penalty on children. Examples include death penalty for minors like Sukur Ali,<sup>8</sup> convicted under section 6(2) of the Nari o Shishu Nirjatan Ain, 1995, and sentenced to death in 2001. He was fourteen at the time he was charged and 16 years at the time of the trial. The High Court and the Appellate Division upheld the lower court verdict against him in 2004 and 2005 respectively. Shukur Ali and BLAST filed a writ petition in 2005 seeking an order pronouncing unconstitutional section 6(2) of the 1995 law, and declaring the verdict against him illegal. The High Court Bench did not pronounce the verdict illegal, but stayed its execution for two months so that the petitioners, if they wished, could go to the Appellate Division against its ruling.<sup>9</sup> The trial continued for about two years at the end of which Shukur Ali was found guilty and sentenced to death. The fundamental right of the child was disregarded and juvenile justice denied.

ASK with many child rights organisations has campaigned to raise the minimum age of criminal responsibility to twelve years, to ensure proper legal provisions for children in conflict with the law and for a functioning juvenile justice system.

7. *Forgetting that they are Children*, Aparajeyo, 2012.

8. *Justice for Children in Bangladesh*, UNICEF Bangladesh, 2010

9. *bdnews24.com*, 3 March 2010

## Child-focused UPR Report

Bangladesh has ratified the UN Convention on the Rights of the Child (UNCRC) and is committed to the elimination of hazardous child labour in particular. It is also committed to the elimination of violence against both women and children. But the absence of laws, weak implementation of existing laws and social acceptance of human rights violations has deterred the realization of these goals. Imbalances in economic and political power and the vulnerable socio-economic status of working children have created a highly insecure environment. ASK has therefore expressed concern with the situation of working children particularly in the informal sector, which is not protected by the law. It has worked with networks to include references to working children in reports for CEDAW and CRC.

For the first time in 2012, ASK, as a member of the Child Rights Governance Assembly (CRGA), a civil society advocacy network comprised of 17 organizations, prepared a child centred UPR stakeholder report, which was shared with the Government of Bangladesh and NHRC in September 2012 and submitted to the UN Committee on Child Rights. This report prepared collectively by ASK, CRGA and Save the Children International discussed the implementation of child rights in comparison with the last UPR submitted in 2009. The report was prepared through a consultative process, in which ASK participated. The draft report was shared with different stakeholders within and outside Dhaka.

### Challenges

- Insensitivity of law enforcers and the public about the rights of children in conflict with the law.
- Weak implementation of laws in protecting children.
- Social tolerance of customary practices such as corporal punishment, child marriage, etc. that require social and behavioral changes.
- Lack of protective mechanisms for children in penal settings.
- Lack of legal protection for child domestic workers.
- Need to amend laws in compliance with CRC.

### Way forward

- Increased and improved training of public officials, elected representatives, educationists and law enforcement personnel on protection mechanisms.
- Rights training for public officials, teachers and law enforcement agency.
- Exemplary disciplinary action against educationists/teachers who violate laws and court orders.
- Legal protection for child domestic workers.
- Compulsory education for all children.