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Limited Gains, Enduring Violations: Civil Society Perspectives on the Implementation of the United

Nations' Convention on the Rights of the Child in Bangladesh

Abstract

Against the backdrop of continuing rights violations in Bangladesh, this paper analyses issue-salience and framing in the policy discourse of civil society organisations (CSOs) and state elites on the implementation of the United Nation's Convention on the Rights of the Child (CRC). Data from the reports submitted to the second-cycle United Nations' Universal Periodic Review (UPR), the official monitoring mechanism associated with UN rights treaties, show how state discourse is framed in instrumental, administrative terms. In contrast, civil society discourse is critically framed and highlights poor implementation and enforcement of the CRC, poverty, and corruption. This helps to explain ongoing rights violations in an increasingly hostile political context wherein government is unresponsive to civil society claims, mobilisation is suppressed and CSOs are forced to focus on service delivery and advocacy functions.

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Introduction

This study explores civil society organisations' discourse on the implementation of the United Nations Convention on the Rights of the Child (CRC) in Bangladesh, a country that presents a challenging rights context (Khan and Lynch, 1997; Wang et al, 2009; Haque and Ashan, 2014; Islam and Ndungi, 2016; HRW, 2017, p.114). Children's rights are a topic particularly deserving of attention because, although it is almost three decades since Bangladesh ratified the CRC, as a leading account notes, 'the violation of child rights is a common matter. [Whilst] children have basic rights to education, balance[d] diet, health

and nutrition, protection, participation, recreation, safe water, sanitation, and hygiene. Most of the children of Bangladesh are deprived from these' (Mohajan, 2014, p.207). Notwithstanding some potentially positive policy developments (e.g. the National Child Labour Elimination Policy, 2010, and the National Child Development Policy, 2011), as well as limited gains in access to education and reduced child mortality - recent UN analysis highlights continuing, widespread and serious rights issues. These include sexual abuse and exploitation, child labour, violence and rape (HRC, 2013).

Despite this, systematic attention to the policy discourse of civil society organisations (CSOs) and state elites on CRC implementation in Bangladesh has hitherto largely escaped scholarly attention. The present study addresses this lacuna. It uses critical discourse analysis to examine government and civil society organisations' reports submitted to the second-cycle United Nations' Universal Periodic Review (UPR), the official monitoring mechanism associated with UN rights treaties. Specifically, it analyses the way the reports are framed. 'Framing' here is the way that language is expressed. It is concerned with the inherent meanings, messages and criticality in relation to policy ideas (Heine and Narrog, 2015). The particular focus here is 'frames in communication' (Druckman, 2001). In other words, the communication of frames between key policy actors. In the present case, civil society organisations and the state as expressed through the mechanism of the UPR.

In the latter regard, civil society participation is a foundational aspect of the UPR. The policy guidance is explicit: 'the UPR should ensure the participation of all relevant stakeholders, including non-governmental organizations' (OHCHR, 2011, p.7). The UPR reports are a rich data source that complement official narratives, thereby providing 'situated knowledge' about the prevailing rights environment in the country as viewed by civil society organisations. The following analysis allows theoretically-informed insight into the role of civil society as a political space for promoting children's rights. In turn, it throws a critical light on government claims that, it, 'welcomes the tradition of local NGOs and CSOs contributing to strengthening the national human rights regime... [And that]

Bangladesh will … continue to fully involve CSOs in promoting human rights at all levels' (GoB, 2013, p.24).

The study aims are threefold; to identify what issues state and civil society organisations highlight when reporting on CRC implementation for the UPR; to explore the language-use associated with the different implementation issues ('framing'– see below); and, to reflect on the contrasts and commonalities between government and civil society organisations' discourse in their UPR submissions and their implications. In short, it is a research design that acknowledges that 'the role of non-governmental organizations [to rights implementation] is crucial in Bangladesh' (Hossain Mollah, 2014, p.474). The remainder of the paper is structured thus: following an outline of the research context and related aspects of social theory, the study methodology is described. Attention then moves to the findings. First, with analysis of rights issues and the way they are framed; followed by analysis of the attention to different policy areas. The concluding discussion summarises the main findings and reflects upon their implications.

Hostile Political Environment: Bangladesh's Lost Rights Agenda

The political context for CSOs has deteriorated in Bangladesh and the rights agenda has been pushed into the background (Saidul Islam, 2011; Mohajan, 2013; Haque and Ahsan, 2014; Feldman, 2015). This has impacted upon CSOs. As the following discussion reveals, these now mainly focus on service delivery and advocacy functions rather than mobilisation (Chowdhury, Jahan and Rahman, 2017). A number of factors explain this shift. In 2014 political conflict between ruling and opposition parties paralysed the country and political instability remains a key challenge (Hassan and Nazneen, 2017; Lewis, 2017). Allied to this, the space for political opposition in Bangladesh has been radically curtailed (Suykens, 2016). To add to the malaise, successive governments have focused on the management of the macro economy at the expense of human rights (Hossain, 2015).

Notwithstanding this, citizens' fundamental rights and civil liberties are nominally protected by a range of instruments, including the Constitution and the United Nations Convention on the Rights of the Child. Yet, as the UN observes, failings are apparent: 'outdated legislation, inadequate policies and poor services continue to jeopardize the rights of children'. There is 'no comprehensive national legislation governing the rights of children in Bangladesh. Provisions related to children are spread across various different laws, many of which predate the CRC. Consequently, provisions are not always consistent with the rights outlined in the Convention'.[1]

Aside from legal gaps and ambiguities, promoting human rights is also hampered by bureaucratic hurdles. For example, CSOs are required to register with government ministries. The names of 250,000 are currently logged by various authorities, of which 50,000 are believed to be active (USAID, 2014, p.v). In turn, about a thousand of these are concerned with 'socio-economic development, including protecting and promoting human rights especially of [the] poor, minorities and socially backward groups' (Hossain Mollah, 2014, p.478). As a leading international monitoring body explains: 'on paper, CSOs are allowed to operate freely within certain limits. For the most part, CSOs have the freedom to express their concerns on social and political matters... however, the bureaucratic system and corruption sometimes hinder the operations of advocacy-oriented organizations... if a CSO's views oppose those of the political party in power, the operations of the CSO, and the lives of its leaders, could be in jeopardy' (USAID, 2014, p. 2).

In sum, Bangladesh is a context characterised by limited gains and ongoing rights violations. This is reflected in various international rights indices. All give a poor rating. For example, the International Human Rights Rank Indicator (IHRRI) assigns the country a lowly rating of less than a half (47.20 per cent) (IHRRI, 2014). Others point to a recent deterioration in human rights (Freedom House, 2016). The situation has led to repeated calls for widespread and urgent reforms. For example, a recent report by the UN (HRC, 2013) called on government to: 'define and incorporate the principle of the best interests of the child into national legislation' (p.4, para 11.); 'establish a Children's Ombudsman to deal

with complaints of violations of children's rights and to provide remedies for such violations' (p.4, para 14); 'halt the imposition of the death penalty on persons below 18 years' (p.7, para 24.); and, stop 'children being held in adult jails [and end] their ill-treatment in police custody' (p.7, para 27). Against this challenging backdrop attention now turns to this study's conceptual underpinnings.

Theory and Methods

The potential benefits of civil society and government co-working on UNCRC implementation have a basis in social theory on knowledge exchange and democracy. Notably, complementarity theory emphasizes language and how politicians attempt to cope with complexity by using civil society in policy implementation; this not only strengthens 'input legitimacy', but also promotes policy efficacy through the pursuit of shared goals (Klijn and Skelcher, 2008). Accordingly, critical discourse analysis was employed to examine the UPR submissions. This 'is a type of discourse analytical research that primarily studies the way social-power-abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context' (Van Dijk, 2001, p.352). There were two components to the discourse analysis - issue-salience and framing; each are now considered in turn.

'Issue-salience' is a mode of content analysis (Krippendorff and Bock, 2008). It measures the frequency of key words, ideas or meanings in policy documents. This gives an index of the level of attention to (and thus indicator of prioritization of) key topics amongst competing issues and agendas. This was operationalised by using a technique borrowed from electoral studies. This sub-divided the UPR reports into 'quasi-sentences' (or, 'an argument which is the verbal expression of one political idea or issue,' Volkens, 2001, p.96). Dividing sentences in this manner controlled for long sentences that contained multiple policy ideas. To do this deductive coding was applied to electronic copies of UPR submissions with the number of references to each issue or topic ('quasi-sentences') recorded in a database.

As noted, the second aspect of the discourse analysis centred on framing. This derives from the classic work of Goffman (1974). It refers to the language used by policy actors. Effectively it is a 'schemata of interpretation' (Goffman, 1974, p.27). It is concerned with the inherent meanings, messages and criticality in relation to policy ideas. As the following reveals, framing deepens the analysis for it moves beyond the level of attention to policy issues to consider how policy actors perceive and understand them (this is particularly germane to understanding CRC implementation – see the discussion of 'hard' and 'soft' rights – below). The use of framing is also appropriate because, in the wake of the first cycle UPR in 2009, of pivotal importance is the extent to which political elites are true to their UPR rhetoric and are listening to civil society organisations in fulfilling their CRC obligations. In other words, the degree to which state discourse is consonant with civil society views on CRC implementation and there is 'frame alignment'. The concept of 'frame alignment' in the policy literature underlines the way that the probability of effective collaborative policy implementation increases at the point at which the frames of principal policy actors—such as government and civil society—are aligned. By using such methods, the present paper makes an original contribution by examining human rights implementation as a two-stage process. Specifically, identifying what topics or issues CSOs and government identify as important to CRC implementation and; determining whether there is frame alignment between actors.

Lastly, the data source is the second cycle (2013) UN Universal Periodic Review. This constitutes a rich and singular dataset that informs understanding of the role of civil society as a political space for resisting child oppression and realising rights. The UPR was established following a 2006 UN General Assembly resolution (60/251). According to its proponents, it is not designed to be an elite process. Instead, it provides the chance for each state to set out the actions they have taken to advance human rights. Crucially, it allows civil society organisations to provide formal written submissions. Twenty-five CSO reports submitted to the UPR were analysed alongside the state's National Report (GoB, 2013). The CSOs were split evenly between international and indigenous organisations (as determined by organisations' self-authored overviews in the reports - and the address of their headquarters).

Findings: State and Civil Society Discourse on CRC Implementation

The current analysis of issue-salience reveals those that state and civil society organisations identify as important in CRC implementation. They include child labour, violence, (in-)equality and discrimination, sexual abuse, child marriage, and participation (Table 1). It also reveals broad concordance between state and CSOs. At a superficial level this would appear to augur well for CRC implementation. For example, both give primary attention to rights. They also rank child labour in the top three issues. There is modest divergence on other matters. For example, for civil society organisations the third-ranked topic is violence and abuse of children, this is fourth-ranked in the state discourse. However, notwithstanding this, as the following discussion reveals, when the framing of the discourse is examined, a different picture emerges. Crucially, there are significant qualitative differences in state and civil society language use, or framing (Table 2). The reason that this matters to current and future implementation of the CRC is because it shows how the government 'frames' – or understands - rights issues in ways that either do not correspond to – or conflict with, the views of civil society organisations ('frame misalignment'). To explore this in further detail attention now moves to consider framing in relation to the primary rights issues in the UPR discourse, followed by a focus on policy areas.

[Temporary Note – Table 1. – about here]

(i) Rights Issues

The state-CSO 'disconnect' is evident in the case of the discourse on rights. Reflecting scholarly work on the challenges of rights implementation (Hamelink, 2012), civil society discourse is predominantly critical in nature. Specifically, it is concerned with key failings in the monitoring and enforcement of law and policy. This aspect is absent from the state discourse. The contrast in state and CSO discourse links to the extant literature on the distinction between framing 'hard' and 'soft' rights (Cole, 2009). The

former are legally enshrined and enforceable (e.g. as one CSO puts it, 'constitutionally-enforceable rights… International treaty obligations must be incorporated into national law before they can be directly enforceable').[2] Whilst the latter are discursive and symbolic (Trubek and Trubek, 2005, p. 343). The present analysis reveals the state discourse to espouse 'soft' rights in a declaratory matter lacking in criticality. For example, 'Bangladesh will promote human rights, democracy, good governance and the rule of law' (GoB, 2013, p.14).

The issue of violence against children and child abuse (proscribed under CRC Article 19) also illustrates the misalignment of state and civil society UPR framing. Work by Islam et al (2015, p.195) on national minorities (or 'indigenous communities') gives an insight into the prevalence of the problem in Bangladesh. It found that: 'the majority of children (79 per cent) reported that their parents or elders punished them physically at home and that made them feel bad. [Moreover] Sixty one percent of children received punishment frequently, 37 per cent rarely, and 2 per cent experienced it all the time.'

As a recent international monitoring report concluded, the core implementation failing in this area is, 'a general lack of enforcement due to limited resources and capacity to implement and monitor [child abuse] laws. Governance remains weak, with responsibility for children held by one of the least-resourced ministries' (BDHRL, 2015, p.56). The present analysis is not encouraging. It reveals that the state discourse is narrowly framed in terms of the administration of criminal justice. For example, 'a 'Special Cell' comprising female police personnel has been set up at the Police Headquarters and four police stations to receive complaints and help women and Children victims of violence' (GoB, 2013, para 101). In contrast, the civil society discourse is framed to reflect the multiple dimensions of the problem. Monitoring and enforcement issues are a central trope. As one CSO put it, 'implementation of existing laws and policies to protect children from abuse… several laws exist in relation to child welfare and protection. However, implementation of these laws is very weak. Not much has been done in ensuring abusers [are held] accountable'.[3] Moreover, as Khan and Lynch (1997, p.818) note, in addressing the widespread abuse of children, 'there is a need to raise both professional and public

awareness of the issue. The discrepancies that exist between the laws of the land and cultural practices has to be brought to public attention'. This is a trope in the CSO discourse, as typified by a CSO that noted, the 'attitude of law enforcing agents in most of the cases is not only gender insensitive but sometimes become abusive towards the... children. There is no effective access to justice [there...] needs to be stronger campaigns and awareness raising programs'.[4]

[Temporary Note – Table 2. – about here]

There are also contrasts in the way state and civil society organisations frame their UPR discourse in relation to child sexual abuse (CSA). As Fattah and Kabir (2013, p.912) explain, although proscribed under CRC Article 34, 'it is clear that CSA is highly pervasive and present in all segments of [Bangladesh] society. Children, especially girls, are extremely vulnerable. There are few places where young girls are safe from the risk of sexual abuse'. Estimates of its prevalence vary. One study notes that, 'between 2002 and 2006, there were over 5,000 reported incidents of eve teasing[5] and raping of girls. More than 2,000 of those rapes were of girl children and 625 of the victims were killed after they were raped and 69 killed themselves' (Mohajan, 2014, p.10). Whilst a more recent study found that 'more than 240 complaints of rape were reported in the media between January and May [2016]'.[6]

The present analysis shows CSOs' framing is characterised by criticality and attention to the multifaceted nature of CSA. For example, intimidation preventing victims reporting rape, as well as the widespread corruption of enforcement agencies are reoccurring tropes, yet these are largely absent in the state discourse. For example, one CSO referred to: 'insurmountable obstacles to obtain justice... [the] unwillingness of police or other authorities to accept cases, falsification of medical reports, social stigmatization, [and] threats to accept out-of-court settlement and threats by perpetrators or those siding with them. As a result, rapists and other perpetrators of gender-based violence enjoy nearly total

impunity'.[7] Social attitudes are a further barrier. As one CSO noted, 'social stigma [underpins] non-disclosure of sexual abuse by the children, [as does…] lack of witness protection, [and] un-child friendly (especially for the girls and children with disability) legal and medical examination procedures'.[8] These critical frames in the CSO discourse resonate with extant scholarly literature. For example, Khan (2005, p.225) notes that when attempts are made to report juvenile rape, 'there may be additional punishment such as ostracising or lashes. While rape carries strict punishment, socially disadvantaged women have found cases made by them to be overturned when the perpetrator has used economic resources to influence law enforcement agencies'. Furthermore, whilst absent in the government discourse, the CSO submissions frame the issue in terms of policy failure and the need for urgent reform. For example: 'child sexual abuse, exploitation and child pornography… Most of the relevant laws fail to define child prostitution and do not address all the manifestations of commercial sexual exploitation; boys are not afforded protection; and certain provisions could potentially lead to the prosecution of children forced into prostitution. These are severe gaps that must be closed through speedy reforms'.[9]

In the case of child marriage, whilst as Ahsan and Mullick (2013, p.158) note, in recent years 'instances…have decreased', it nevertheless remains a serious and widespread rights violation. Kamal et al (2015, p.120) concur. Their research found that, 'the mean age at first marriage has increased by only 1.4 years over the last one and half decades, from 14.3 years in 1993-94 to 15.7 years in 2011'. They continue, 'although the situation on risk of child marriage has improved over time, the pace is sluggish'. Estimates of the problem vary. One study ranks Bangladesh third in the world in terms of prevalence (69 per cent of all marriages) (Kamal, 2012, p.317). Another assessment is that whilst 'the percentage of girls marrying before age 18 declined from 65 percent in 2014 to 52 percent in 2016… 18 percent of girls still marry before the age of 15, the highest rate in Asia' (HRW, 2017, p.117).

The present analysis shows key contrasts in state and CSO framing of the issue in the UPR discourse. The former frames it purely in terms of administrative and bureaucratic procedures (e.g. 'the

GOB has initiated review of the Early Marriage Restraint Act, 1929. The GOB has sent directives to all marriage registrars to make it a mandatory provision to consult Birth Registration Certificates and/ or National ID Cards', GoB, 2013, para.102). In contrast, the CSO discourse is framed in terms of corrupt administration (e.g. 'child marriages continue to take place by bribing marriage registrars and faking birth certificates').[10] A further core trope relates to the educational impact of the practice. For example, the 'majority of children living in isolated rural communities, or [were] homeless, lack proper access to education… [a key factor being] due to high dropout due to early marriage'.[11] Another key frame is widespread shortcomings in the enforcement of marriage laws. One CSO put it simply, our main 'concern [is the…] non-implementation of Child Marriage Prevention Act [it] is not enforced properly'.[12]

As Ferdousi's (2014, p.7) work reveals, further factors drive the problem. These include 'poverty, superstition, lack of social security and lack of social awareness'. These all feature in the CSO discourse, yet are missing from the state submission. Thereby underlining the pivotal role of framing and how the misalignment revealed here is a key, hitherto overlooked brake on progress. For example, one CSO stated that, 'a national campaign against child marriage need[s] to be launched to reduce child marriage and the Government need to develop multi-programmes to end child marriage'.[13] Early marriage also has major implications for children's health. As Rahman and Chowdhury (2007, p.170) explain, many are 'inexperienced adolescent mothers due to early marriage. Most of these mothers have a limited awareness of proper childcare and adequate nutrition practices'. It is point that also features in the CSO discourse, yet is absent in the state submission. For example, 'child marriage… It may be noted that for a country like Bangladesh, food intake quality and awareness on nutrition both are important to address malnutrition of mother and children'.[14]

Child labour is a key and enduring rights concern (UNCRC, Article 32). According to a recent UN assessment, 'economic exploitation, including child labour, is widely prevalent in Bangladesh [… there is a] high incidence of child workers in five selected worst forms of child labour, and a lack of mechanisms to enforce specific laws to protect child workers' (HRC, 2013, p.8). As Ruwanpura and

Roncolato (2006, p.374) observe, underpinning this is 'the centrality of poverty and the structures of political economy'. According to one leading international measure (the 2014 Bertelsmann Transformation Index), 76.5 percent of the population is living on less than $2 a day' (USAID, 2014, p.1). Poverty's role in child labour is confirmed by Islam et al's study (2015, p.202). They found that, of the parents they surveyed, '25 per cent admitted that they had no option but to send their children to work because of their economic insolvency'. Whilst Mohajan (2014, p.213) argues that amongst the 'poor families of Bangladesh... About 40 per cent of the siblings and the children are earning members of the family'. A further cause is the global demand for cheap consumer products, notably garments (see Neilsen, 2005).

It is in this context that frame analysis again reveals a further 'disconnect' between state and civil society discourse. The former is largely descriptive and framed solely in terms of public administration. For example, 'the GOB has adopted the National Child Labour Elimination Policy (NCLEP) [... and] A National Plan of Action has already been formulated to implement NCLEP and... A Child Labour Unit (CLU) has been established in the Ministry of Labour and Employment' (GoB, 2013, p.18). In contrast, the civil society discourse is critically framed, giving primacy to policy failings, including poor monitoring and enforcement. A core strand relates to the economic and welfare challenges posed by child labour. For example, one CSO observed that, the official policy response needs to 'recognis[e] the particular situation of many extremely poor and vulnerable families who rely on child labour to survive, [we] urge the GoB to establish safety nets programme to provide the required financial and social benefits to those in need'.[15] In a similar vein, another pointed to the need for 'generating opportunities for parents so they are not so reliant on their children's income'.[16]

A further trope is the threat posed to child health (CRC Article 24 rights). This aligns with Ahmed and Ray's (2014, p.142) work that reveals how, 'child labour leads to substantial increases in the probability of injury or illness'. They observe that 'while Bangladesh labour laws implement a minimum age (18 years) for hazardous work, there is a considerable lack of enforcement of this legislation. [They

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proceed to argue...] emphasis should be placed on a more effective implementation... including adequate monitoring'. This too is a key frame in the CSO discourse (e.g. 'children, some as young as 11, employed in tanneries who work long hours each day directly with chemicals, heavy tannery machinery, or cutting hides with razor blades').[17]

A further trope is gaps in legal protection. For example, one CSO highlighted how, 'informal child labour sectors [that] are totally outside the ambit of existing laws... about half a million children, three quarters of whom are girls, work as domestic help which is in the 'hidden sector''. This example also illustrates a further key frame used by CSOs, exploitation. It continued, 'Some 90 per cent of them [informal child labourers] sleep in the homes of their employers, a large number of whom are paid no wages. They are thus extremely vulnerable to exploitation'.[18] Similarly, another CSO alluded to how, 'children continue to be employed in hazardous occupations (with undocumented numbers in domestic work) and exploited by low wages, long hours, [and] physical abuse'.[19]

Article 12 of the CRC sets out children's right to participate in decision-making (*inter alia*, 'states Parties shall assure [... that] the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body'). This is of pivotal importance, for as Lansdown (2001) details, children have long been marginalised in public decision-making with negative consequences. As Wall and Dar (2015, p. 610) observe, 'it is clear that new thinking is required around children's political representation [... they] will remain second-class citizens so long as the use of democratic power is reduced to recent political models... Th[e necessary...] transformation involves conceptualizing children... as owed political representation'. As Mohajan (2014, p.236) explains, children's marginalisation has diverse causes: 'Bangladeshi children are deprived from basic rights to... participation. The rights of children are violated due to poverty, ignorance, lack of social consciousness and discrimination'. The problem is particularly acute for disabled children: 'the ill-being of the disabled is mainly determined by... denial of participation in social affairs' (Sultana, 2014, p.214). Such marginalisation has had an enduring

impact. Notably, in the study by Islam et al (2015, p.205), when children themselves were asked about the types of rights they wanted, 'the main suggestions included… the right to be listened to'.

Against this backdrop, the present analysis reveals that the government discourse makes scant reference to children's participation. There is an isolated reference to a key policy development (e.g. 'the GOB has adopted the National Children Policy 2011, strengthening and incorporating the principles of respecting children's opinions and ensuring children's participation for realization of child rights', GoB, 2013, p.18). Yet, crucially, aims, means, timescale and outcomes of measures to overcome barriers and promote participation are lacking. In contrast, the CSO discourse is critically framed. For example, one noted that our 'concern is that the right to be heard needs further development and is concerned at the few opportunities that the family in particular provides for voicing a child's own opinion and for participation in family, school, and community decision-making. Recommendation… promote children's participation at all levels of state, family, school and community creating formal and informal spaces'.[20]

Notwithstanding CRC Article 2 rights on discrimination ('States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind'), a recent UN report highlighted that in Bangladesh, 'particular groups of children, including refugee children, children with disabilities, children of ethnic and religious minorities, and children in slums and rural areas, continue to face discrimination and disparities' (HRC, 2013, p.2). According to another recent report, 'indigenous girls face multiple forms of discrimination due to their gender, indigenous identity, and socio-economic status; they are especially vulnerable to sexual and gender-based violence' (HRW, 2017, p.118). Despite the existence of a number of anti-discrimination statutes and policies (*inter alia*, The Bangladesh Persons with Disabilities Welfare Act, 2001, and the National Child Policy, 2010)[21], the problem remains a serious one. Analysis of the state UPR discourse, reveals it to be limited and descriptive in nature (e.g. 'the GOB has adopted the National

Children Policy 2011, strengthening and incorporating the principles of non-discrimination', GoB, 2013, p.6).

In contrast, the civil society discourse frames discrimination in terms of intersectionality, or the patterns of oppression linked to individuals' multiple, simultaneous characteristics (i.e. childhood *and* ethnicity, childhood *and* disability etc., see Crenshaw, 2000); as well as its impact across a broad range of policy fields. As work by Ahsan and Mullick (2013, p.159) reveals, education is a particular concern in this regard. They conclude that attempts to deliver inclusive education in the country, 'fail to address the needs of all learners and [lead to] segregated education for some children'. They continue, 'despite substantial progress in public interventions, progress is slow on improving the quality of education for all children, especially the marginalized'. The framing of the civil society discourse supports this. For example, in relation to the Bihari minority, one CSO noted, there is 'no access to learn [the] Urdu language though their [children's] mother tongue is Urdu [… There is] rampant discrimination'.[22] In a similar vein, another highlighted, 'discrimination against Dalits… regarding access to education, most Dalits have no formal education'. In response they call on government to act: 'scholarships should be allocated for Dalit children… measures should be taken to empower them through national initiatives, such as income generating schemes… ensuring basic health services, scholarships for students, social safety-net programmes, and political inclusion'.[23] Having explored the framing of URP discourse in relation to key rights issues, attention now turns to explore the framing of UPR discourse across policy areas.

(ii) Policy areas

A recent UN report noted that it was 'concerned that prevention-based policies are lacking and that certain conditions in Bangladesh undermine the enjoyment of the right to life, survival and development of the child' (HRC, 2013, p.9). As the following analysis reveals, the framing of civil society discourse across ministerial portfolios resonates with this assessment.

In the case of health, when weighed against Article 24 rights (*inter alia*, 'the right of the child to the enjoyment of the highest attainable standard of health'), it is clear that there are major ongoing challenges in the country. Moreover, there are significant differences in the framing of the discourse. The government frames its UPR submission in descriptive terms, narrowly-focused on mortality and morbidity statistics and public administration details. In this it fails to set out detailed implementation measures. Instead it places accent on describing institutional developments (e.g. 'Bangladesh has developed a very good health and family planning infrastructure network… Maternal mortality declined to 194 [per 100,000 live births] in 2010', and 'the Government has so far launched… 407 Maternal Child Health-Family Planning units', GoB, 2013, p18). In contrast, CSOs emphasise the complex, inter-related nature of securing children's health rights. In this regard the challenges are formidable, as Mohajan (2014, p.211) explains:

> About two-fifths of children under five are underweight, and nearly half of them suffer from chronic malnutrition. A conservative estimate of the number of under five children suffering from wasting (weight-for-height) in Bangladesh is 2.2 million. More than half a million of these children are in the severe category of acute malnutrition and face elevated risks of mortality.

The present analysis shows that malnutrition is the principal issue in the civil society discourse. For example, one CSO noted that, whilst 'Bangladesh has made considerable progress in child survival rate over the last several decades. [And there have been] successful programs for immunization, control of diarrhoeal diseases and vitamin-A supplementation [… the] statistics of malnutrition manifests the clear deprivations from which lot of children suffer… health improvements have not yet reached the most vulnerable children'.[24] Another underlined the fact that 'some ten million children - did not have access to sufficient, safe and nutritious food… Growth retardation, an outcome of chronic under nutrition, is widespread, affecting almost one in two of the country's 17 million children below five years of age'.[25]

The CSO discourse is also framed in terms of the implications of health rights violations. For example, 'undernourished children suffer impaired physical growth and cognitive development, which

ultimately diminishes their life-chances to learn, develop and succeed in adulthood. Stunted children grow up to be disadvantaged adults, perpetuating the intergenerational cycle of poverty and crippling the economic development of a country'.[26] The CSO discourse is also framed in terms of intersectional issues. For example, one CSO complained, the 'right to health… children with disabilities do not have facilities or protection, and doctors and nurses - particularly in rural areas, there are no facilities. There are only some facilities in Dhaka'.[27]

In relation to Article 28, 'States Parties recognize the right of the child to education', Haque and Ahsan (2014, p.217) note how there has been some recent progress: 'Bangladesh culture has been quite progressive, achieving progress in these areas faster than neighbouring countries'. Yet, as Ferdousi (2014) explains, the extent of the progress is dwarfed by the scale and complexity of the prevailing challenges. He notes:

> With early marriage, many girls drop out of school. They take away their right to education which undermines their self-confidence, decision-making power and denies them the opportunity to become economically independent… These consequences are reinforced by the fact that the children of young and illiterate mothers tend to face the same cycle of childhood deprivation and damage experienced by their mothers' (p.2).

Field and Ambrus's study (2008, p.925) also alludes to the reciprocal relationship between early marriage and girls' educational attainment. Their analysis shows that, 'when individual girls in rural Bangladesh are forced by biology to delay marriage, they attain significantly more schooling and are more likely to be literate'. This is also confirmed by Kamal's (2012, p.317) research which shows, 'women's education appeared as the most significant single determinant of child marriage, as well as decline in child marriage'.

There is a clear divide in state-CSO framing of education policy in the URP discourse. The government discourse is principally concerned with administration and institutional developments. However, this is not to deny the scale and ambition of some of its recent reforms (e.g. 'in January 2013,

the GOB nationalised 26,193 private primary schools all over the country. Because of this decision, 103,845 teachers will draw their salaries and wages from government exchequer', GoB, 2013, p.12). Yet there is general dearth of criticality and, worryingly, scant attention to monitoring, evaluation and policy efficacy. Instead, these frames are the preserve of the civil society discourse. For example, one CSO lamented that, 'although the Government pledged to achieve 100 per cent literacy by 2014, around 9.68 million children in the six-to-ten age group remain out of school and 37.35 million people in the 11-45 age group remain illiterate. The majority of children living in isolated rural communities, or homeless, or from marginalized communities lack proper access to education'.[28]

Law is a key aspect of policy that crosscuts the CRC. An appropriate legal code is essential to effective implementation. As in the preceding cases, there are key differences in the framing of the discourse. The language of the state is overly descriptive. However, it is again important to note some potentially positive developments. For example, the Children Act 2013 has replaced the outdated Child Act, 1974. The new enactment incorporates some, but not all, of the provisions of the CRC. Notably in this Act, the legal definition of a child has finally increased from 16 to 18 years. However, the crucial difference is that, in contrast to the government's UPR submission, the civil society discourse is critically framed. It highlights shortcomings in the enforcement of the county's legal code, as well as deficiencies in the statutory protection of children. These concerns underpin CSOs' recommendations for wide-ranging legal reforms. For example, one called for government to 'enact law on [the] right to education to ensure universal access including incentives for poorer families to send children to school'.[29] Another noted that, although 'several laws exist in relation to child welfare and protection… implementation of these laws is very weak. Not much has been done in ensuring [child] abusers [are held] accountable'.[30]

Article 27 of the CRC sets out the right 'to a standard of living adequate for the child's physical, mental, spiritual, moral and social development, including appropriate accommodation'. Yet, as the civil society discourse underlines, homelessness and the problem of street children mean that 'the violation of children's rights is still extensive' in the country.[31] Moreover, it simultaneously results in the denial

of Article 19 and 28 rights. In the case of the former, one CSO noted that, 'the sexual exploitation of girl and street children is widespread… necessary legislation needs to be passed in accordance with the CRC including protection of rights of street children. The Vagrancy Act also needs to be amended to protect rights of street children'.[32] Whilst in regard to Article 28 another alluded to the fact that, '37.35 million people in the 11-45 age group remain illiterate. The majority of children living in isolated rural communities, or [who are] homeless, or from marginalized communities lack proper access to education'.[33] In contrast, the state discourse is framed in descriptive terms and confined to listing enactments in this area of policy (e.g. 'the most significant new laws are… Vagrant and Homeless People (Rehabilitation) Act, 2011', GoB, 2013, p.7).

In terms of criminal justice, it should be acknowledged that new legislation in the form of The Children Act (2013), has resulted in a number of reforms that, on paper, have strong potential for positive progress. Although it remains too early to assess their impact. For example, the new statute requires Children's Affairs Desks in police stations with dedicated Child Affairs officers, as well as the establishment of a juvenile court in every district. However, the present analysis shows that the state UPR discourse on criminal justice is framed in descriptive, administrative terms (e.g. 'access to and delivery of justice… during 2009–12… 234 Children, who sought national legal aid, received legal aid', GoB, 2013, p.8). Crucially, the present analysis provides strong evidence of a disjuncture with the civil society discourse. The latter is excoriating in its condemnation of rights failings. For example:

> The juvenile justice system… fails to protect children due to its ineffective implementation. Child victims of crime, witnesses and juvenile delinquents are kept at the same protection services. Arbitrary arrests of child vagrants, school drop-outs, beggars, sex workers and drug addicts are commonplace, and custodial abuse, physical and sexual, is reported. Detained children are kept with adult prisoners exposing them to further violence'.[34]

Another CSO highlighted its view that, 'in practice the judiciary is not child-friendly, the children are harassed in the investigation process, and there is no victim and witness protection to enable a child

and her/his family to seek justice against organized criminal networks or influential offenders'.[35] Danger was a core trope in the discourse. For example, 'there are no separate safe custody centers for endangered children at police stations'; and 'implementation of existing laws and policies to protect children from abuse… is very weak. Not much has been done in ensuring abusers [are held] accountable. Girl children are not always safe under temporary police protection'.[36]

The final policy area is public administration. Since the first cycle UPR in 2009 there have been some potentially positive administrative developments, such as the creation of the National Council for Women and Children Development (NCWCD). The latter's purpose is to coordinate government policy and to recommend amendments to child protection law. Other advances include the creation of Child Welfare Boards in all districts of the country. However, the analysis shows how CSOs have given these developments a mixed reception. One noted that they mark 'a welcoming step [… they] could be an ideal result-oriented platform'. However, it proceeded to suggest that in reality much of the heralded reform was largely an exercise in symbolic politics. It observes that 'since its inception in 2009, the NCWCD has had only one meeting and [is] yet to implement the decisions of that meeting'.[37]

Reflecting wider concerns in the extant rights literature (cf. Cole, 2015), the civil society discourse repeatedly questions the capacity and resourcing of state institutions. For example, one noted that the 'creation of a separate Ministry for Children, a separate directorate for children, and an Ombudsman for children will help to ensure the rights guaranteed for them in the Constitution of Bangladesh'. Yet, it continued:

Despite enactment of various laws and formulation of positive policies, the Government and its relevant institutions are still struggling for implementation of the existing law and policies. Lack of coordination and capacity of the implementation bodies of Bangladesh Government is one of the major factors for this situation… As a result violence against women and children remains pervasive.[38]

Others urged government to back policies with adequate investment. For example, one noted 'recommendations - Establish an independent Office of the Child Ombudsman, and a separate Division for Children within the Ministry and provide necessary budget allocation to realise child rights'.[39] It is a plea that is echoed in the latest UNHRC report: 'it is also an important fact that a large administrative set-up is required to implement these provisions' (CRACB, 2015, p.23). A further core frame in the civil society discourse that is unmatched in the government's report is autonomy and independence. For example, referring to the recently created National Human Rights Commission (NHRC) one CSO referred to the fact that 'plenty of concerns remain with regard to the function of NHRC as an effective human rights watchdog, [we are] noting the executive predominance [i.e. government nominees] in the composition of the selection committee and even the daily work through secondment'. Reflecting civil society's general concern over the monitoring and enforcement of CRC measures, reference is also made to the NHRC's 'limited powers to ensure state compliance with its recommendations and directives'.[40]

Discussion

The political context for CSOs has deteriorated in Bangladesh and the rights agenda has been pushed into the background. Almost three decades on from the ratification of the CRC, the situation remains an extremely challenging one, with widespread and enduring children's rights violations. It is in this context that the study's core findings can be summarised in relation to the original research aims. The first was to identify what issues civil society organisations highlight when reporting on CRC implementation for the UPR. This was by measuring issue-salience in the UPR submissions. The analysis reveals that, notwithstanding acknowledgement of some positive new laws and policies (e.g. the Children Act, 2013), their concerns were found to be wide-ranging and centred on a full range of issues, including: child labour, violence, (in-)equality and discrimination, sexual abuse, child marriage, and

participation. The issue-salience data also showed broad concordance between state and the CSO discourse. At a superficial level this would appear to augur well for CRC implementation. For example, both give primary attention to rights and rank child labour in the top three issues.

However, to better understand the lack of progress in CRC implementation in Bangladesh attention also needs to be placed on the second research goal. Namely, comparative exploration of state and civil society language-use – or the framing associated with different CRC implementation issues. In this regard, the analysis reveals that the state discourse overwhelmingly frames matters in instrumental and administrative terms. It is concerned with descriptive, rote-like listing of legal and institutional developments. In contrast, the civil society discourse is highly critical in nature. Largely absent in the government submission, the key frames employed included: implementation failure, corruption, the lack of coordination among the state agencies; and a failure to embed proper monitoring, guidance, and enforcement of child protection laws. Further frames include inadequate resources; limited awareness of rights issues; barriers to reform; and the negative rights implications of inequality and poverty.

It should be noted here that, whilst a broad literature highlights issues of clientelism and co-option as potentially undermining civil society organisations' criticality of state (in)action (Foster, 1997; Leonard et al, 2010; Ocakli, 2015), the present analysis found no evidence for this. It showed that indigenous and international CSOs alike were similarly disposed to offer highly critical, sometimes coruscating views on the rate of progress in implementing the CRC. Against the backdrop of ongoing concerns about the health of democracy in the country (HRW 2017, op cit), a key finding that emerges here is that CSOs can still be critical of government. Yet crucially, in today's hostile political climate this plays out in advocacy terms but not in mobilization terms. If CSOs turn seriously to mobilization, they are likely to be blacklisted, closed down, leaders arrested. This is deeply troubling for, as classical thinking (cf. De Tocqueville, 1835), underlines, the latter 'strengthens civil society and hence democracy

by improving interest articulation and representation' - including the upholding of rights (Clarke, 1998, p.50).

The marked qualitative differences in state and civil society language-use revealed in this study matters. It is key to current and future implementation of the CRC. As noted, it also helps to explain the endurance of rights violations since the CRC was ratified in 1990. Civil society discourse is pivotal to progress because both the CRC and the UPR are predicated upon CSO input and state responsiveness. As complementarity theory underlines, the reason for this is two-fold: effective knowledge exchange as well as a concern for democracy in rights practice. Specifically, when government listens to CSOs it boosts 'input legitimacy'. As Klijn and Skelcher (2008, p.16) put it, 'citizen and stakeholder engagement [is…] an indication of a new mode of interactive governance, as well as a symbol of the need for politicians and administrators to acquire support, to generate new solutions and to strengthen the legitimacy of their decisions'.

The final research aim was to reflect on the implications of the contrasts and commonalities in government and civil society UPR discourse. In the wake of the first cycle UPR in 2009, of pivotal importance here is the extent to which political elites are true to their UPR rhetoric and are listening to civil society organisations in fulfilling their CRC obligations. To this end, the endurance of rights violations over successive UPR cycles needs to be viewed in the context of the frame misalignment (or dissonance) revealed in the foregoing analysis. In a practical sense this raises key questions about the efficacy of international rights monitoring regime. In conceptual terms it points to issues of performativity and legitimation in the Bangladesh state response to the UPR. 'Performativity' here refers to the 'reiteration of a norm or set of norms, and to the extent that it acquires an act-like status in the present, it conceals or dissimulates the conventions of which it is a repetition' (Price and Shildrick, 1999, p.241). It is what Hajer (2005, p.624) calls the 'performative dimension of policy deliberation'. Applied to the present case study it underlines how the Bangladesh state submission to the UPR *appears* to embrace civil society engagement and the promotion of child rights in a way that advances

political legitimacy. In this sense it resonates with what Hafner-Burton et al (2008, p.115) identify as mechanisms that present 'opportunities for rights-violating governments to display low-cost legitimating commitments to world norms, leading them to ratify human rights treaties without the capacity… to [subsequently] comply with the provisions'.

In short, the current examination suggests that the Bangladesh state response to the second-cycle UPR constitutes such a case of 'legitimation'. In other words, 'communicative actions aimed at managing the public's perception that government actions are effective in promoting their desired ends, whether that is in fact true' (Moore, 2001, p.712). Ahead of the third cycle UPR, future progress will, in large measure, depend on securing greater critical frame alignment and thus state responsiveness to civil society rights claims in the process of CRC implementation. Without this, limited gains and enduring violations will continue to characterise children's rights in this part of South Asia.

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Issue	State	State	CSO	CSO
	%	Rank	%	Rank
Child labour	16.7	3	16.4	2
Rights	28.8	1	40.5	1
Violence	12.1	4	15.4	3
Child marriage	6.1	6	3.1	7
Sexual abuse	12.1	4	9.9	5
Participation	1.5	7	3.9	6
(in)equality/ discrimination	22.7	2	10.7	4
Policy Area				
Health	12.9	4	12.7	4
Care	4.7	6	7.8	5
Education	35.3	1	26.6	2
Law	21.2	2	26.8	1
Criminal justice	17.6	3	21.3	3
Housing/ homelessness	2.4	7	1.5	7
Public administration	5.9	5	3.4	6

Table 1. Salience of Rights Issues and Policy Areas in State and Civil Society Organisations' UPR Discourse (N=1,008)

Issue	Core Frames
Rights	'enforcement', 'monitor', 'violation', 'protection', 'duty', 'awareness'
Child labour	'exploitation', 'elimination', 'prohibition', 'monitor', 'enforcement', 'hazard/ danger', 'health', 'poverty', 'protection'
Violence	'monitoring, 'enforcement', 'awareness', 'data/ statistics', 'prosecute', 'bribery/ corruption', 'protection', 'punishment',
Inequality/ discrimination	'exclusion'/ 'marginalization', 'attitudes', 'barriers', 'awareness', 'identity', 'intersectionality'
Sexual violence/ abuse	'harassment', 'intimidation', 'social stigmatization', 'corruption', 'impunity', 'attitudes', 'reform', 'protection'
Child marriage	'corruption', 'bribery', 'education', 'awareness', 'poverty', 'child health/ well-being'
Participation	'exclusion'/ 'marginalization', 'family', 'school', 'community', 'decision-making', 'voice', 'empower'

Table 2. Core Frames in Civil Society Organisations' UPR Discourse

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[1] https://www.unicef.org/bangladesh/children_4878.html [last accessed 15.01.17]
[2] Bangladesh Stakeholders Report, 2013, p.11.
[3] CRGA, Bangladesh, 2013, p.18.
[4] Bangladesh National Woman Lawyers Association, 2013, p.4.
[5] persistent sexual oriented teasing with ribald comments and offensive language
[6] https://www.amnesty.org/en/countries/asia-and-the-pacific/bangladesh/report-bangladesh/ [last accessed 15.01.17]
[7] Jumma Net - An NGO supporting human rights and peace in the Chittagong Hill Tracts, Bangladesh, 2012, p.3.
[8] CRGA, Bangladesh, 2013, p.6.
[9] Child Rights Governance Assembly (CRGA), Bangladesh, 2013, p.18.
[10] Bangladesh Stakeholders Report, 2013, p.6
[11] Bangladesh Stakeholders Report, 2013, p.7.
[12] Bangladesh National Woman Lawyers Association (BNWLA) 2012, p.4.
[13] Ibid, p.5.

[14] Joint Submission of Campaign for Sustainable Rural Livelihood (CSRL) and Oxfam, 2012, p.4.
[15] National Human Rights Commission, Bangladesh, 2012, p.2.
[16] Child Rights Governance Assembly (CRGA), Bangladesh, 2013, p.3.
[17] Human Rights Watch, UPR Submission, Bangladesh, October 2012, p.3.
[18] Child Rights Governance Assembly Bangladesh, 2013, p.7.
[19] Bangladesh Stakeholders Report, 2013, p.14
[20] CRGA, 2013, p.17.
[21] This placed special emphasis on disadvantaged children and children with disabilities and autism, to ensure they are included in efforts at education and development.
[22] Association of Young Generation of Urdu Speaking Community (AYGUSC) & Council of Minorities, 2012, p.5.
[23] the Bangladesh Dalit and Excluded Rights Movement (BDERM), Bangladesh Dalit and Excluded Women Federation (BDEWF), Nagorik Uddyogii and the International Dalit Solidarity Network (IDSN), 2012, p.7.
[24] CRGA, 2013, p.15.
[25] Joint Submission of Campaign for Sustainable Rural Livelihood (CSRL) and Oxfam, 2012, p.4.
[26] Submission by World Vision Bangladesh, 2012, p.5.
[27] Bangladesh office of Action for Disability and Development International office in collaboration with Disabled Peoples International and the International Disability Alliance, 2012, p.12.
[28] CRGA, Bangladesh, 2013, p.9.
[29] Bangladesh Stakeholders Report, 2013, p.17
[30] Child Rights Governance Assembly (CRGA), Bangladesh, 2013, p.3.
[31] Bangladesh National Woman Lawyers Association (BNWLA) 2013, p.5.
[32] Child Rights Governance Assembly (CRGA), Bangladesh, 20132013, p.5.
[33] Bangladesh Stakeholders Report to UPR Human Rights Forum, Bangladesh, a coalition of 18 human rights NGO, 2013, p.8.
[34] Bangladesh Stakeholders Report, 2013, p.14
[35] Submission by World Vision Bangladesh - Child Protection and Child & Maternal Health, 2012, p.6.
[36] Bangladesh National Woman Lawyers Association (BNWLA), 2013, p.9
[37] Child Rights Governance Assembly (CRGA), Bangladesh, 2013, p.7.
[38] Bangladesh National Woman Lawyers Association (BNWLA), 2013, p.31.
[39] National Human Rights Commission, Bangladesh, 2012, p.7.
[40] Child Rights Governance Assembly (CRGA), Bangladesh, 2013, p.3.