# Health Legislation in Bangladesh
# A Content Analysis and Scopes for Improvement

**(To Review the Existing Health Legislation and to Identify the Shortcomings of Each of the Health Legislation that are in Effect in Bangladesh)**

*Prepared for*

**Directorate General of Health Services,**
**Ministry of Health and Family Welfare**
**and**
**The World Health Organization, Bangladesh**

**[BAN ECP 001 RBOO, p#5, A # 3: National Health Policies and Programme Development and Management]**

Abul Barkat
Muhd. Azizul Karim
Md. Matiur Rahman Shah
Md. Ibrahim Ali

**April 2001**

Human Development Research Centre

# EXECUTIVE SUMMMARY

## Rationale

Provisioning of primary health care to the people is a constitutional obligation of the state, which is usually guaranteed through various health legislations. The relevant health policy makers, administrators, managers and implementators of health development programmes are of the opinion that many health legislations in Bangladesh are not only outdated and inadequate but also unsuitable to meet the emerging needs of the people.

Under the technical support of WHO, two major health legislation documents were prepared in 1992 and 1998 by the DGHS. These two documents show that there are health legislations, which are 150 years of old and are still in force in Bangladesh. The documents also indicate that the health related laws and bills in Bangladesh, in many instances, are inadequate to deal with the current health problems in congruence with the Health and Population Sector Program. These shortcomings account, to a large extent, for the inability of the law-enforcement agencies to effectively protect the health of the general public. This also make the Ministry of Health and Family Welfare difficult to carry out its sector reform programme. In addition, since the publication of the health legislation report in 1998, there have been requests from both the government and the donors to review the health legislation thoroughly, to further identify gaps in different areas of the health sector and to identity new areas where changes as well as new legislations are required.

## Objective

The main objective of this study was to review the existing health legislations, keeping in view identification of the major shortcomings and suggesting possible changes. The specific objectives were:

1. To review, extensively, the existing relevant legislation pertaining to the health sector;

2. To identify the strengths, weaknesses and gaps of each of the health legislation;

3. To make recommendations as to how the identified health legislation may be improved, changed or updated; and

4. To make suggestions on how the health legislation can be more effectively enforced, and elaborate the responsibilities of the various Ministries that are involved in the formulation, enactment, monitoring and enforcement of the health legislation.

## Methodology

The study was exploratory by nature, and followed the following four major steps:

1. Collection of all relevant health legislature (Act, Ordinance, Order) from various sources.

2. Categorization of all relevant health legislation to ease the review process, and to ensure high utility of the review outcome.

3. Desk review including research team's brainstorming on each Law, case-by-case, to identify shortcomings and suggest ways for improvements.

4. Discussion and consultation with relevant persons in the government, legal experts, policy makers, program implementors, and health service seekers.

The study was implemented by a leading health and population sector research organization in Bangladesh – the **Human Development Research Centre.** Considering the complex and multidisciplinary nature of the study, a team comprising of high quality experts having exposure on relevant subject areas, experience and above all commitment to produce high-utility output was deployed.

## Key Findings

01. *After close scrutiny of a total of 207 Laws (Act, Order, Ordinance) collected in the process, 90 Laws were found to be related with health or health related subjects. These 90 enactments fall under the seven broad subject-areas of health legislation:* Vital Registration and Welfare Legislation, Public Health, Communicable Disease Control, Food and Drugs Control, Health Education and Health Practice, Environmental Health, and Protection of Children and Women.

02. *Health laws by broad groups (categories, segments):* Out of the total of 90 health related laws, 23.3 percent are related to Food and Drugs Control; 18.9 percent related to Environmental Health; 16.7 percent each related to Vital Registration and Welfare Legislation, and Health Education and Health Practice; 11.1 percent are related to Public Health, 8.9 percent are related to Protection of Children and Women; and only 4.4 percent are related to Communicable Disease Control.

03. *Historically, health laws are 20$^{th}$ century phenomenon:* Eighty seven percent of all health-related laws were enacted in the 20$^{th}$ century.

04. *Enactment of health law was a neglected subject during Pakistan period:* Only about 19 percent of the health laws were enacted during the Pakistan period. The areas of neglect were laws on Protection of Children and Women, Communicable Disease Control, and Welfare Legislation.

05. *Law making in health is an old and continuing subject:* The oldest enactment on health dates back to 1855 (Fatal Accidents Act) and the latest Act to 1997 (Drugs Control Amendment Ordinance).

06. *Nineteenth Century's main concentration was on Vital Registration:* Fifty percent of the health laws enacted during 19th century were related to "Vital Registration. Laws relating to Protection of Children and Women, and Health Education and Health Practice were ignored.

07. *Health laws on the major subject areas in the 20th Century were more balanced:* Compared to the 19th centuries concentration on "Vital Registration" alone, the 20th century was more balanced concentrating on health laws pertaining to the all other broad subject areas.

08. *Relative emphasis of enactment of health-related laws during British-Raj (colonial period) was on "Vital Registration", but not neglecting associated areas:* Laws, during this period were concentrated more on "Vital Registration", followed by areas such as Protection of Children and Women, Food and Drugs Control, and Environmental Health. The areas of relative neglect were Health Education and Health Practice, Communicable Disease Control, and Public Health.

09. *Bangladesh is marching forward based on cumulative health laws:* During the Bangladesh period, there was a relative higher stride for filling-in the gaps in the areas of relative inadequacy. The relative emphasis was higher on Health Education and Health Practice, Food and Drugs Control, Environmental Health, Vital Registration and Welfare Legislation, and Public Health.

10. *Strengths of health laws:* Possession of 90 laws (Act, Orders, Ordinances) on health and health-related subjects itself is a **strength**. Many of the old laws were accordingly amended, and some new enacted to meet the demand of the time.

11. *Weakness of existing health laws:* The major **weaknesses** of the existing health-related laws lie in the sphere of applications and enforcement due to variety of reasons. The main causes or otherwise called weaknesses for which the laws are not being properly enforced or informed or applied are the following:

    i. Necessary rules as required under the laws for proper implementation of the laws, in many cases, were not framed as yet for which laws can not be applied properly.

    ii. There are lapses on the part of the law enforcing agencies (including police) in making complaints and holding inquires against those who violate and contravene the provisions of law.

    iii. Complex and time consuming procedure of making complaint, inquiry and trial.

    iv. Punishments both in terms of fine and imprisonment as prescribed against most of the offences under the health-related laws are too inadequate and as such those leniant laws are seldom obeyed. For example, to discharge harmful smoke from motor vehicles causing serious health hazard particularly to city dwellers, is a punishable act under section 150 of the Motor Vehicle Ordinance and surprisingly punishment prescribed for such an offence is only a fine of Tk.200.

v. Lack of awareness and knowledge about rights and obligations on the part of the service providers as well as the service recipients/clients. There is hardly any campaign for raising awareness of the people to abide by laws.

vi. Lack of accountability of the service providers, and apathy of the service recipients (mostly due to low quality of care and services in the service delivery facilities).

vii. Relatively weak coordination among various agencies involved.

12. *Weakness in terms of non-availability of Laws:* There exist many subject areas on which new legislations need to be made to improve upon the health status of the people. The areas include, among others, the following: STD/HIV/AIDS, Arsenic Pollution, Negligence and wrong treatment on the part of Doctors/Nurses, clients rights and providers responsibility in the hospital/clinics, School Health, Safe Blood Transfusion, Vaccines and Inoculations covering all kinds of vaccines, Code of conduct for the doctors, Health Insurance, Waste Disposal, and Sound Pollution.

## Key Recommendations

In order to improve upon the overall health status of the nation, and to make the health laws more effective and enforceable, the following suggestions are made:

i. Necessary rules as required, under the laws, should be framed for proper implementation of the provisions of the relevant laws. A total of 18 such Laws have been identified where necessary rules need to be framed.

ii. Police and other departmental agencies should be made more active, more vigilant and more sincere to lodge complaints against the wrong doers and complete inquiry without delay.

iii. Procedures for lodging complaint and holding of inquiry in respect of offences under certain laws (as suggested in our comments) should be changed or amended and simplified.

iv. Punishments of the offences under certain laws (as suggested in our comments) should be suitably enhanced by way of necessary amendment of the relevant sections of the respective laws under review. In this connection, a total of 20 existing laws (out of 90) have been identified where penal provisions need to be revisited and enhanced.

v. In order to punish the offenders committing certain offences affecting health and hygiene on the spot mobile courts should be held more frequently.

vi. In some cases, amendments need to be made to broaden the scope, or to change reporting provisions, or to change definitions. As such 9 laws have been identified where such amendments are required.

vii. Public opinions and awareness should be raised against certain diseases, against certain offences affecting public health with punishments thereof through mass and electronic media and also by circulation of leaflets/posters for general public. NGOs may also play their role in this regard.

viii. New health legislations should be enacted on the following areas to meet the people's emerging health needs: STD/HIV/AIDS, Arsenic Pollution, Waste Disposal, Sound Pollution, School Health, Health Insurance, Vaccines and Inoculations covering all kinds of Vaccines, Safe Blood Transfusion, Clients Rights and Providers Responsibility in the Hospitals and Clinic, Code of Conduct for the Doctors, Negligence and Wrong Treatment on the part of Doctors and Nurses.

ix. Health-related law is a multministerial subject. In order to smoothen the whole process of law making and its compliance, effective mechanisms for inter-ministerial co-ordinations and monitoring need to be devised.