

## The Efficacy of the Children Act, 2013 in Bangladesh: An Assessment

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*Despite the adoption of the Children Act, 2013 children in Bangladesh experience abuse of their fundamental rights on a daily basis. The living condition of many children are deplorable. There is no significant improvement in the welfare and quality of life of children in Bangladesh. This work assesses the effectiveness of the Children Act, 2013 on protecting the rights and welfare of children in Bangladesh and posits that lack of awareness of the rights of children, lack of political will by the government to implement the Children Act, 2013, socio-economic problems like poverty, lack of basic amenities, bad governance, among others, are responsible for the poor implementation of the Children Act, 2013. By employing a mix of doctrinal and empirical research methodologies, this research underscores several recommendations, including ensuring good governance, effectively implementing the Children Act, 2013, punishing offenders, improving socio-economic conditions, and eradicating poverty in Bangladesh.*

**Keywords:** Child, child rights, child protection, socio-economic, good governance, Bangladesh.

### Introduction

Bangladesh's primary goal is to create a society free from all sorts of abuse, exploitation, and discrimination. From this point of view, the significance of the Children Act, 2013 cannot be underestimated because this act provides extensive and exclusive rights of children in Bangladesh. Bangladesh alongside other states ratified the United Nations Convention on the Rights of a Child (UNCRC), 1989<sup>3</sup> through the enactment of the Children Act in 2013<sup>4</sup> abolishing the Children Act of 1974 which directly provided for the protection of the and the rights of the child in Bangladesh are guaranteed and protected under the Act. The unfortunate reality is that notwithstanding this Act, several harmful and exploitative behaviors that violate children's fundamental human rights are common in Bangladesh. However, the pervasiveness

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<sup>3</sup> UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, accessed on 26 September 2023, <https://www.refworld.org/docid/3ae6b38f0.html>

<sup>4</sup> Children's Act, 2013 (Act No. 24 of 2013).

of child labor, child abuse, and exploitation cases including trafficking, child marriages, and child brothels has posed a threat to the realization of these ambitious provisions of the Act. This endemic situation thus, presents an obvious worry as to the justifiability of this all-encompassing legislation that is, the Children Act. A possible explanation for this is that- in spite of the existence of most rights guaranteed under the Act many children are still subject to all forms of exploitation, physical, sexual and otherwise. In other words, children in Bangladesh are at risk of being neglected, abused, killed, kidnapped, sexually assaulted, tortured, and trafficked. The economic crisis, harmful cultural traditions including early marriage and prostitution, and other factors have contributed to too many children living in extreme poverty. Lack of basic necessities has driven many children into street selling and alms begging, and societal turmoil is also to blame for exposing them to other forms of exploitation. Since children are entitled to specific protection, laws pertaining to children's rights recognize their unique vulnerability and offer them extra protection from harm. This study looks at the impact of the Children Act in Bangladesh. The implementation challenges of the Act are explored, and recommendations are provided for its implementation as well.

### **Who is a Child**

Every human being less than the age of 18 is referred to as a child in Article 1 of the United Nations Convention on the Rights of the Children, 1989. The Child Marriage Restraint Act (2017) defined child as a male or female who is under the age of 21 or 18 respectively. According to the Nari-o-Shishu Nirjatan Daman Ain (2000), a child is defined as a person under the age of 16. The National Child Welfare Policy (1989) defines a child as someone who is 12 years of age or under, but the Bangladesh Labor Code, 2006 defines a child as a person who is under fifteen (15) years of age. The Majority Act of 1875 states that girls and boys must be 18 and 21 years old, respectively, before they can be married. The Children Act, 2013 in section 4 defines a child as a person who has not reached the age of eighteen (18) years. It is clear from the preceding that there is no single, accepted definition of a child and that the meaning of the term depends on the context in which it is used. There is another hidden momentum of gender equality, as male and female age of maturity is not distinguished anymore. In any event, it is important to remember that children are the most vulnerable members of any community since they are weak, defenseless, innocent, naive, and frequently unaware of danger<sup>5</sup>. Since numerous laws pertaining to children in Bangladesh contain various context specific meanings of the term "child" or similar terms like "children" following the core area of analysis this study adopted the definition from the Children Act of 2013.

<sup>5</sup> Chowdhury Md. Shakhawat Ullah, "The Paradox of the Most Vulnerable Children's Environment in Bangladesh: Government-NGO Collaboration," *Social Change* 10, no. 1 (2021)

### **Legal Framework on Child Rights in Bangladesh**

Bangladesh is a State Party to the United Nations Convention on the Rights of the Child (UNCRC), 1989. Bangladesh ratified the UNCRC in 1990- and made a commitment to fulfill the rights of her children by enacting the Children Act in 2013. Prior to the 2013 Child Rights Act, child protection in Bangladesh was defined by the Children Act, 1974. Besides, the Constitution of Bangladesh<sup>6</sup> also guarantees the social security of children. Article-18(2) states that all forms of prostitution shall be prevented. Article 35(5) says that no person shall be subjected to torture or cruel, inhuman, or degrading punishment or treatment. Article 28 gives the country the ability to execute any special law to serve the interests of children and Article 34 excludes children to perform hard work. Except these, many laws are designed to protect children from careless, ruthless, abuse and exploitation, and to promote their development. These laws are The Penal Code, 1860<sup>7</sup>, The Guardians and Wards Act, 1890, The Prevention of Oppression Against Women and Children Act, 2000, Bangladesh Labor Act, 2006, Domestic Violence (Prevention and Protection) Act, 2010, The Prevention and Suppression of Human Trafficking Act, 2012<sup>8</sup>, The Pornography Control Act, 2012. The Child Marriage Restraint Act, 2017, and so on. The Penal Code, 1860 stipulated that children under the age of 9 are not liable for criminal acts, and if children between the ages of 9 and 12 do not have sufficient understanding, they will not be liable for offence (Section 82 and 83 of the Penal Code 1860).

### **The Children Act 2013: A Milestone of Child Rights in Bangladesh**

The Children Act of 2013 (formally known as "Shishu Ain, 2013"), which was approved by the parliament on June 16, 2013, has 100 sections and 11 chapters. Such a law exists in Bangladesh, where the estimated 70 million children are the sole focus of the act's principal goal and its exclusive subject matter. The protection and treatment of children are the primary objectives of this Act. However, the Children Act 2013 in Bangladesh is a good move and a significant milestone for the protection of children's rights in all spheres of life. The Act acknowledges a few organizations and their members while outlining their obligations to safeguard children's best interests. The following list outlines the Children Act, 2013:

#### ***The internationally accepted definition of a child***

Children were not treated fairly because of the age inequalities between them. The Children Act of 2013 addresses this disparity. The child's age has been raised from 16 to 18 years under the Act. So, the minimum age for children is now 18 years.

<sup>6</sup> Constitution of the People's Republic of Bangladesh (Bangladesh), 4 November 1972, accessed on 26 September 2023, <https://www.refworld.org/docid/3ae6b5684.html>

<sup>7</sup> Bangladesh: Penal Code, 1860 (Bangladesh), Act No. XLV of 1860, 6 October 1860, accessed on 26 September 2023, <https://www.refworld.org/docid/56b1f84e4.html>

<sup>8</sup> Prevention and Suppression of Human Trafficking Act, 2012 (Act No. III of 2012)

### ***Coordinated with the CRC***

The 2013 Children Act, which superseded the 1974 Child Act, is based on the CRC and makes reference to it in the preamble. Children in Bangladesh will now have the chance to be treated properly under both domestic and international rules as a result of this progress.

### ***Safeguard of child victims and witnesses***

For the first time, the Act contains a provision for child victims and witnesses establishing legal tools for their protection, including compensation for victims. Children accused of petty crime, especially those living on the streets, will no longer be needlessly incarcerated as a result of the law's emphasis on the relevance of the juvenile justice system.

### ***Appointment of probation officer***

A probation officer must be appointed by the government, who must do so in each district, upazila, and metropolitan area, in accordance with the Act.

### ***Child help desks in the police station***

In accordance with the Act, Child aid Desks will be established in police stations around the nation under the Ministry of Home Affairs. The desk will be looked after by a police officer with a sub-inspector or higher rank. The Act details what duties the authorized police officer is responsible for.

### ***Child-friendly arrest procedure***

The Act states that no kid under the age of nine may be arrested, regardless of the situation. The use of handcuffs and a rope around the waist while arresting a youngster over the age of nine is prohibited.

***Single charge sheet against children*** The Act makes specific provisions for filing a single charge sheet against minors. The Act prohibits the submission of a single charge sheet that includes both adults and minors.

### ***District-level juvenile courts***

In accordance with the Act, each district or metropolitan region must establish at least one juvenile court. Whatever offenses a child is accused of committing will be tried in juvenile court if a case is brought against them.

### ***Create National Child Welfare Board***

A National Child Welfare Board will be established in accordance with the Act. The board's chairperson will be the minister of the Ministry of Social Welfare. Additionally, boards will be

created at the district and upazila levels. The heads of the boards shall be the district commissioner and the upazila nirbahi officer (sub-district executive officer), respectively.

#### ***Substitute preventive measures***

The Act stipulates that throughout any phase of the official judicial system, a police officer or a juvenile court may seek out alternative preventive measures. The Act also mentions that a monitoring method will be in place to see if the specified alternative measures have any good effects on the conduct of the child.

#### ***Provision of sentence***

The Act recommended a maximum penalty of five years in prison and a Taka one lakh punishment for any abuse of children in addition to providing guidelines for raising the kids in a supportive environment.

#### ***Media's obligation***

It is forbidden for media to post anything that disparages a kid who is a defendant under this Act.

#### ***Children's welfare***

This Act promotes family-based care and protection while taking into account the child's best interests and meaningful kid participation.

However, it can be claimed that the 2013 Children Act will fill in any gaps left by the older 1974 Children Act. We now need to implement the new Act properly and raise awareness of it.

#### **Assessing the impact of the Children Act, 2013 in Bangladesh**

Since Bangladesh domesticated the UNCRC 33 years ago, the Children Act of 2013 has been in effect for 10 years. However, the conditions it lays forth to protect children are still far from being implemented. The major issue is that the Children Act of 2013 does not apply properly across the entire nation. In addition, numerous cultural customs among the ethnic tribes of Bangladesh have facilitated child abuse. Child labor, child marriage, and child brothels are only a few examples of such behaviors. Some of these elements would be taken into account in the discussion.

#### **Status of Children in Bangladesh**

Despite all the rights granted under various national and international laws and treaties a large quarter of children in Bangladesh remain vulnerable to various forms of abuse and

discrimination. For instance, according to Chowdhury the scope of the problem, evaluates the basic, social, psychological, and physical needs of the children, and looks into how the street kids actually live in Bangladesh<sup>9</sup>. The Department of Social Services, Ministry of Social Welfare of Bangladesh, commissioned a qualitative study on children living in street situations in Bangladesh. The study focuses on the life of street children and the complexities they encounter, such as going home, obtaining services, and being abused or exploited. This study explores the hotspots where children who live or work on the streets typically congregate and work, in continuation of the quantitative report "Survey on Street Children 2022." Children in Bangladeshi street conditions are still neglected, lacking the social and protective services needed to defend their rights and prepare them to be contributing members of society<sup>10</sup>. However, this section highlights the key challenges to protect child rights in Bangladesh.

### ***Child Prostitution***

A kind of commercial sexual exploitation of minors is child prostitution. The phrase is typically used to describe prostitution by a minor or someone who is not of legal age to consent. According to the UNCRC, 1990, "child prostitution" is the sexual exploitation of a child under the age of 18 for financial or in-kind gain. Contrarily, "forced prostitution" refers to the control over a person who is compelled to engage in sexual behavior by another. Given that neither party has given their full, free, and informed permission, child prostitution is regarded as a sort of forced prostitution<sup>11</sup>. Globally, girl children are disproportionately affected by child or forced prostitution (CFP), which violates their human rights and prevents them from leading lives free from all types of violence. The government of Bangladesh is required to take appropriate measures to prohibit prostitution and gambling, as stated in Article 18(2) of the country's constitution. Children above the age of four may not be kept in brothels, according to Section 77 of the Children Act of 2013. According to the 2013 Children Act, a fine of taka 50,000 or a period of two years in prison, or both, are the penalties for operating a child brothel. Despite being officially forbidden by the Children Act of 2013, child prostitution and child brothels are nonetheless widely practiced in Bangladesh. Bangladesh has 14 licensed prostitution establishments. According to earlier research, there are more than 20,000 children who are born and raised in brothels.<sup>12</sup> Affidavits are used to recruit girls for brothels. They are frequently younger than 18 and frequently coerced into prostitution. According to the UNCRC, children

<sup>9</sup> Chowdhury Md. Shakhawat Ullah, "The Paradox of the Most Vulnerable Children's Environment in Bangladesh: Government-NGO Collaboration," *Social Change* 10, no. 1 (2021)

<sup>10</sup> Children in Street Situations in Bangladesh, 2024, accessed 15 November 2024, <https://www.unicef.org/bangladesh/media/9676/file/Street%20Situation%20in%20Bangladesh%202014.pdf>

<sup>11</sup> Child and forced marriage, including in humanitarian settings, accessed 26 September 2023, <https://www.ohchr.org/en/women/child-and-forced-marriage-including-humanitarian-settings>

<sup>12</sup> The Daily Star, May 15, 2014

born in brothels have the same rights as other children in society<sup>13</sup>. However, these children experience discrimination and struggle to exercise their fundamental rights.<sup>14</sup> Further, brothels are frequently located in small spaces with unfavorable physical conditions. Congested, inadequately ventilated, dimly lit, and partitioned into small spaces, rooms are crowded<sup>15</sup>. Hence, a variety of human rights are frequently denied to girls who work in brothels, including the requirement that many must stop their schooling, the dangers of early and repeated pregnancies, and sexual and physical abuse. Girls who work in child brothels are exposed to rape, sexual assault, and emotional abuse. They develop in a setting where living style, grooming, language, conduct, and customs are completely alien to the rest of civilization.<sup>16</sup> The mother's occupation and the unsanitary surroundings separate the children from polite society in their early years. Girls are becoming entangled or unwittingly joining the same career as their mothers due to a lack of educational opportunities or environmental influences. Boys engage in illegal activities like stealing, robbery, drug peddling, and tokai work as child laborers. All children are entitled to free and required education under Article 17 of the Constitution. Despite the fact that Article 28(4) of the constitution itself calls on the State to take action to progress these children, the State has failed to do so in providing these children with an education.<sup>17</sup>

### ***Child Abuse***

The Children Act of 2013's provisions are admirable. However, it is too soon to tell if the law will be applied effectively. There are a lot of instances of child abuse and exploitation in Bangladesh. Many Bangladeshi children experience blatant violations of their rights, even though the Children Act of 2013 guarantees children's rights in Bangladesh. For instance, there is a propensity in society or in educational institutions to take children's punishment very casually, despite the prohibitions of the Children Act, 2013, prohibiting cruelty to children. It irritates that children in Bangladesh are subjected to inhumane and degrading physical and mental abuse. Any type of cruelty to children is prohibited by Section 70 of the Children Act, 2013. Despite this clause, many children have experienced physical and mental abuse at the hands of their parents or teachers in classrooms, the home, and elsewhere. In addition, children in Bangladesh encounter violent incidents in both their families and the places where they reside. 90% of the children were subject to abuse through negative words (Children must not face any form of abuse, 2021)<sup>18</sup>. According to a 2019 study in the American Journal of

<sup>13</sup> Convention on the rights of the child (1989) Treaty no. 27531. United Nations Treaty Series, 1577, pp. 3-178, accessed 16 November, 2024, [https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch\\_IV\\_11p.pdf](https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch_IV_11p.pdf)

<sup>14</sup> Zareen Asna, Children in brothels, the daily Star, 2014, accessed on 16 November, 2024, <https://www.thedailystar.net/children-in-brothels-24101>.

<sup>15</sup> ibid

<sup>16</sup> ibid

<sup>17</sup> Tushar Khurshid Kamal, Educating the Brothel Child, Society for Critical Legal Studies (SCLC), 2020, accessed on 26 September 2023, <https://sclsbd.org/educating-brothel-child>

<sup>18</sup> Children must not face any form of abuse', 27 Dec 2021, accessed on 26 September .2023, <https://en.prothomalo.com/bangladesh/roundtable/children-must-not-face-any-form-of-abuse> .

Psychiatry titled "The Devastating Clinical Consequences of Child Abuse and Neglect: Increased Disease Vulnerability and Poor Treatment Response in Mood Disorders," 46% of those with depression and 57% of those with bipolar disorder reported being abused as children. When examining ASK data more closely starting in 2020, it becomes clear that while the number of child abuse cases has decreased annually from 1,718 in 2020 to 1,426 in 2021 to 1,088 in 2022 to 225 in 2023 (January-March), the number of child killings has remained above the 500 marks, with 589 killings reported in 2020 to 596 in 2021 to 516 in 2022 to 128 in 2023 (January-March).<sup>19</sup> Worrisome is the frightening rate of child sexual abuse in Bangladesh. Ain o Salish Kendra (ASK), a legal assistance organization, released data showing that 128 children were slain in Bangladesh in the first three months of 2023. 225 other children experienced various types of abuse and repression within the same time period. Compared to the prior year, there were more cases of child abuse involving death, rape, and attempted murder in 2021. 818 children were raped in 2021. In 2020, there were 626.

### ***Child Labor***

"Child labor" refers to the employment of minors in any job that denies them the greatest amount of their rights as children, such as the right to regular education and the right to unhindered mental and physical growth.<sup>20</sup> According to the International Labor Organization (ILO), among the 3.45 million child laborers in Bangladesh 1.28 million are doing dangerous jobs.<sup>21</sup> 3,459 child labor infractions were found by the Bangladesh Department of Inspections for Factories and Establishments.<sup>22</sup> Child labor is caused by a variety of socioeconomic factors in Bangladesh. First and foremost, poverty is the primary cause of children working. In Bangladesh, 46% of working-age children live in poverty, with a quarter experiencing extreme poverty, according to UNICEF (2010). Parents are compelled to send their children to work since the average compensation is less than \$5 per day in order to supplement the family's revenue.<sup>23</sup> Compared to children from non-poor homes, children from impoverished families are more likely to work as children. The World Bank (2018)<sup>24</sup> also noted that over 63% of Bangladesh's population lives in rural areas. More than 70% of Bangladesh's population works

<sup>19</sup> Tayeb T, Bangladesh's Persistent Child Abuse Woes, 2023, accessed on 26 September 2023, <https://www.thedailystar.net/opinion/views/closer-look/news/bangladeshs-persistent-child-abuse-woes-3304891>

<sup>20</sup> "What is child labour?" International Labour Organization. 2012, accessed 6 September 2023, <https://www.ilo.org/international-programme-elimination-child-labour-ipeec/what-child-labour>,

<sup>21</sup> International Labor Organization, Bangladesh National Labour Survey, 2013, accessed on 26 September 2023, [https://www.ilo.org/ipeec/Informationresources/WCMS\\_IPEC\\_PUB\\_28175/lang-en/index.htm](https://www.ilo.org/ipeec/Informationresources/WCMS_IPEC_PUB_28175/lang-en/index.htm).

<sup>22</sup> Findings on the Worst Forms of Child Labor, accessed 16 November 2024, [https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2023/Bangladesh.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2023/Bangladesh.pdf)

<sup>23</sup> Al Jazeera, Bangladesh: One in five people live below poverty line, 2020, accessed 8 September 2023, <https://www.aljazeera.com/news/2020/01/bangladesh-people-live-poverty-line-200126100532869.html>.

<sup>24</sup> World Bank, Rural population–Bangladesh, 2018, accessed 26 September 2023, <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=BD>.

in agriculture.<sup>25</sup> Children form a significant portion of the labor force in rural regions because it is customary in Bangladesh to help parents with agricultural tasks. Thirdly, even though education is free and required till grade twelve, it becomes an expense for low-income households. Only 28.6% of children who were employed in 2013 are enrolled in school, which suggests that the possibility of attending a school has a negative correlation with child labor. According to the ILO study, 28.9% of respondents lacked the financial means to cover the costs of attending school and continuing their education. In addition, parents with poor levels of education are more likely to send their kids to work.

The worst types of child labor, such as forced labor used to dry fish and make bricks, and commercial sexual exploitation are all prevalent in Bangladesh. Children also carry out hazardous work in the leather and clothing industries. Additionally, when courts do impose penalties for breaking child labor laws, the fines are too modest to serve as a deterrent. Penalties for breaking child labor laws can only be enforced after a drawn-out judicial process. Through its International Program on the Elimination of Child Labor (IPEC), the ILO has been attempting to eradicate child labor in Bangladesh since 1994. No child may be employed to work in any trade or establishment, according to Section 34 (1) of the Bangladesh Labor Code, 2006. Despite this, child labor is a widespread issue in Bangladesh's Upazilas, Districts, Metropolitan Areas, and other regions. Numerous kids work as child workers in metropolitan areas, usually doing dangerous jobs. Children, for instance, perform a lot of dangerous jobs in the Sylhet Metropolitan Area. According to the Child Equity Atlas: Pockets of Social Deprivation in Bangladesh (2013), the percentage of real child workers (10–14 years old) in 2011.<sup>26</sup> Children are used as cheap labor by employers, who also attempt to increase their profits by paying them very little.<sup>27</sup> Child labor was viewed by the United Nations International Children Education Fund as a disruption of the child's developmental process. While this is going on, children in Bangladesh are still required to work, either to attend school or to support the family full-time, despite the fact that education is free. This is because additional expenditures involved with schooling frequently prove prohibitive for low-income households. Extremely poor families frequently believe they have no alternative but to send their kids to work. Flooding in Bangladesh on a yearly basis and the COVID-19 pandemic have made the situation worse.

<sup>25</sup> World Bank, Bangladesh: Growing the Economy through Advances in Agriculture, 2016, accessed 4 September 2023, <https://www.worldbank.org/en/results/2016/10/07/bangladesh-growing-economy-through-advances-in-agriculture>.

<sup>26</sup> Child Equity Atlas: Pockets of Social Deprivation in Bangladesh, July 2013, BBS, UNICEF, BIDS, accessed 26 September 2023 <https://bids.org.bd/page/researches/?rid=38>

<sup>27</sup> Islam et al., "Practical Scenario of Implementation of the Children Act, 2013 in Sylhet Metropolitan Area and Rule of Law," *British Journal of Arts and Humanities* 4, no. 1 (2022): 23–31

***Children into Begging***

Despite Bangladesh's recent economic development, there are still serious issues there. The Dhaka Metropolitan Police Ordinance III, 1976, forbids begging. According to Ordinance No. 81, anyone who "begs or applies for alms in any street or public place, or exposes or exhibits any sores, wounds, bodily ailment, or deformity with the object of exciting charity or obtaining alms shall be punished with imprisonment for a term which may extend to one month." Nearly 40,000 beggars live in Dhaka, the nation's capital.<sup>28</sup> 16.5% of the beggars in Dhaka City, according to a poll by the Bangladesh Center for Human Rights and Development (BCHRD), are children under the age of 12.<sup>29</sup> According to World Vision research titled "Out of Time: COVID-19 Aftershocks," 34% of Bangladeshi households who experienced a large loss in income sent their kids out to beg on the streets. According to a news conference held by the BRAC Institute of Governance and Development (BIGD) and the Power and Participation Research Centre (PPRC), the pandemic affected 2.45 crore people's lives since 14.75 percent of the population of the country fell into poverty within a year.<sup>30</sup> Employing a child to beg is against the law and is sanctioned by up to 5 years in prison and/or a fine of up to 100,000 Taka under Section 71 of the Children Act of 2013. Institutional care for poor children is listed in Section 85. Unfortunately, the Act does not outline a rehabilitation strategy that would set apart the youngsters who beg on the streets. Every hamlet, town, and city in Bangladesh has beggar children. They can be found in places where they can sit comfortably, such as streets, railway stations, bus stops, mosques, and outside markets close to busy sites like markets and rivers. They spend a lot of time on the streets and are frequently seen at traffic signals begging for cash or more in exchange for a flower or balloon. These kids are frequently abused physically and sexually as well as living in poverty. Lack of love, security, and affection causes some youngsters to pass away, while others grow up to be misfits or criminals.<sup>31</sup>

***Child Development Centre (CDC)***

In Bangladesh, children make up about 45% of the overall population. There is an alarmingly high number of kids who are in legal trouble. However, there are three Child Development Centers (CDCs) (known in Bengali as Kishor Songshodonagar) in Bangladesh: one for girls at Konabari in the Gazipur District and the remaining two for boys at Tongi in the Gazipur District

<sup>28</sup> Cited in Susan S. T, The Proliferation of Child Beggars in the Pandemic, The daily star, February 09 2021, accessed 28 June, 2023 <https://www.thedailystar.net/law-our-rights/news/the-proliferation-child-beggars-the-pandemic-2041725>

<sup>29</sup> *ibid*

<sup>30</sup> Cited in Jahan, A R T, A utilitarian solution to beggar problem, Financial Express, Nov 07, 2021, accessed 28 June, 2023, <https://thefinancialexpress.com.bd/lifestyle/others/a-utilitarian-solution-to-beggar-problem-1636283313>

<sup>31</sup> Monon Y, Child Begging: Drawback of Our Society, 19 July 2022, accessed 26 September 2023, <https://dailyasianage.com/news/290059/child-begging-drawback-of-our-society>

and Pulerhat in the Jessore District. Although the primary goals of a CDC are to offer young offenders care, protection, rehabilitation, and reintegration through a process that includes social work, inspiration, counseling, education, and trade training for skill development and self-employment<sup>32</sup> the condition of CDC in the country is yet to achieve the expected standard. Many opine that due to a lack of proactive attitude people still treat the CDC as imprisonment. Media present that the CDC is a torture cell<sup>33</sup>, a deprivation cave<sup>34</sup> where beating children to death by inmates.<sup>35</sup>

The correctional centers' management structure is subpar. Numerous articles about the terrible management and circumstances of these centers have appeared in national dailies.

For instance, the children aren't given healthy nutrition, medical attention, or an education, much alone any rehabilitative measures<sup>36</sup>. A young detainee at the Jessore Juvenile Rehabilitation Center is accused of hanging himself in 2017.<sup>37</sup> This episode highlights the inability CDC's administration to give the children the proper attention.

According to a poll that was widely done, both juvenile offenders and youngsters who have been specially brought in for correctional purposes are housed in the same prisons. According to the legislation, juvenile offenders must be dealt with in a separate courtroom with a child-friendly environment and they cannot be detained with adult offenders; yet, there is no court or vehicle for this purpose in the nation. Although the Act mandates that children be housed in separate rooms based on their age and the severity of the offenses they had done, it omits to specify the level of care and the stages of rehabilitation that these CDC must take. Additionally, juveniles in correctional centers only receive education up to the primary level, and there aren't enough training programs available for them.<sup>38</sup>

While Section 52(4) of the Children Act, 2013 mandates that the concerned child, if bail is not granted from the police station, shall be forwarded to the concerned Children's Court within twenty-four hours, Article 33(2) of the Bangladeshi Constitution mandates that "Every person who is arrested and detained in custody shall be produced before the nearest magistrate within

<sup>32</sup> Ferdousi Nahid, The establishment of children's courts in Bangladesh: from principle to practice, Oxford University Commonwealth Law Journal, 2015, 15:2, 197-221, DOI: 10.1080/14729342.2016.1191158

<sup>33</sup> Soheli Mamun and Tauhid Zaman, Juvenile Development center or Torture Cell?, Dhaka tribune, august 19, 2020, Jessore.

<sup>34</sup> Ferdousi Nahid, The establishment of children's courts in Bangladesh: from principle to practice, Oxford University Commonwealth Law Journal, 2015, 15:2, 197-221, DOI: 10.1080/14729342.2016.1191158

<sup>35</sup> AFP, Three children beaten to death by Bangladesh detention centre staff, August 16, 2020

<sup>36</sup> Saha Himaloya, and Rahman Saquib, Juvenile Delinquents and the Children Act, the Daily Star, Jan 24, 2017, accessed 26 September 2023, <https://www.thedailystar.net/law-our-rights/juvenile-delinquents-and-the-children-act-1350073>

<sup>37</sup> Juthi Tasmiah, Implementation of Children Act 2013 required, (Bangladesh Observer, 2019), accessed 26 September 2023 <https://www.observerbd.com/news.php?id=232137>

<sup>38</sup> ibid

a period of twenty-four hours of such arrest." A District Judge-level official who is not on duty 24 hours a day, even on workdays, rules over the Children's Court. What will happen when the judge for the Children's Court is off work or after regular court hours? The law has no solution to offer. Any domestic law that is incompatible with the Constitution is invalid from the start.

A child in conflict with the law may spend a significant amount of time in a Child Development Center (CDC) as a result of the fact that, in practice, if the Children's Court rejects a petition pertaining to a child, the guardian has no choice but to go to the High Court Division of the Supreme Court of Bangladesh (HC), regardless of the strength of the petition or the grounds.

Theoretically, many departments, including ministries, are involved in the CDC, but there is a lack of cohesion in the implementation of policies. In many studies on children's rights in Bangladesh, factors such as a lack of infrastructure, ignorance, corruption, burdensome bureaucracy, and dogmatic socio-religious cultures have been shown as obstacles.

### ***Juvenile Justice***

Bangladesh is required by law to have a juvenile justice system that prioritizes respect for children's rights as a signatory state to the UNCRC, 1989. Despite its pledges, the nation has not followed through on many of them, which is currently preventing children from enjoying their rights. Children in court proceedings are given particular considerations under the Act of 2013, which differ from regular court procedures. According to section 47(2) of the Act, 2013, a child-focused police officer may release the kid after providing a written or oral warning in front of the guardian or authority figure of the concerned child. However, in actuality, this power is rarely employed. Additionally, per section 17(4), court hearings for children must take place in a regular room without a witness box or podium that is covered in a red fabric. In reality, minor defendants are typically tried alongside adult offenders in regular courtrooms. The experience of a youngster being tried by the court in front of a large crowd in an open court is the scariest. No child shall be sentenced to death, life in prison, or imprisonment other than when a child is found to have committed any such criminal offense so that detention is not sufficient is payable under this Act, or if the court is satisfied that the child is so disobedient or of such a depraved character that he cannot be sent to a certified institute, according to Section 33(1) of the Act, 2013.

The fact that there are no protections for kids when recording confessional statements, however, can be seen as a flaw. In the USA and Australia, minors' confessional remarks cannot be recorded when their parent, guardian, or other responsible adult is not present. According to the court case Jaibar Ali Fakir vs. the State, it is a common occurrence for kids to act impulsively and not always consider the repercussions of their choices. Therefore, coercing them into confessing by threatening them or offering them love is simple.

It is frequently stated that the juvenile justice system is in conflict with the rule of law because the latter guarantees everyone's equal protection and rights. Children are entitled to several unique rights and extra protections under the juvenile justice system. The state must provide particular provisions on behalf of women, children, or other underprivileged groups of citizens, according to Article 28(4) of the Bangladeshi Constitution. If a juvenile offender is found guilty of delinquency following a trial, they will be committed to a correctional facility for a specified amount of time. The organizational setup, culture, and accommodations for the accused all affect how well the rehabilitation programs work.<sup>39</sup>

### ***Child Trafficking***

Bangladesh is one of the most vulnerable nations to human trafficking due to its size, the number of people living there in chronic poverty, the frequency of natural disasters, and gender inequality. The majority of publications stress that the trafficking of children and women from Bangladesh into India and other nations has significantly increased in recent years. About 300,000 Bangladeshi children have reportedly been trafficked throughout time into Indian brothels, according to UNIFEM.<sup>40</sup> Only 4,700 of the 13, 220 children who were reported to have been trafficked out of the nation in the past five years could be saved. An estimated 4,500 women and children from Bangladesh are allegedly trafficked each year into Pakistan. On the other side, boys from Bangladesh between the ages of 4 and 12 are transported to the Gulf for camel racing. Amin and Sheikh identified the factors and causes of trafficking, which include lack of financial stability, ignorance, poverty, gender discrimination, migration, illiteracy, dowry, natural disaster, and empowerment, as well as the impact of the free market economy, urbanization, better job opportunities, and the sway of media, ICT, and other forms of communication.<sup>41</sup> The Prevention and Suppression of Human Trafficking Act, 2012 (PSHTA)<sup>42</sup> which was passed by the Bangladeshi government, has significantly advanced the battle against trafficking, particularly in terms of increased awareness and prosecution. The government has increased its efforts to enforce the law overall. However, challenges remain in enforcement, education, and prosecution.

### ***Death Penalty to a Child Offender***

No matter how heinous the offense, a minor criminal cannot ever get a death sentence under the Children Act of 2013. Unfortunately, there have been a few cases when the courts choose to

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<sup>39</sup> Juthi Tasmiah, Implementation of Children Act 2013 required, (Bangladesh Observer, 2019), accessed 26 September 2023 <https://www.observerbd.com/news.php?id=232137>

<sup>40</sup> Cited in Amin Md. Ruhul, and Sheikh, Md. Rashidul Islam, Trafficking Women and Children in Bangladesh: A Silent Tsunami of Bangladesh, Journal of Economics and Sustainable Development, 2011, Vol.2, No.4,

<sup>41</sup> Ibid

<sup>42</sup> The Prevention and Suppression of Human Trafficking Act, 2012 (PSHTA) <https://www.refworld.org/pdfid/543f75664.pdf>

flagrantly ignore this despite the death sentence being prohibited by both national and international legal systems. For instance, there was the case of Shukur Ali,<sup>43</sup> a youth of fourteen years old, who raped and killed a seven-year-old girl. The trial court gave him a death sentence. In 2004, the appellate court upheld the death sentence after he filed an appeal with the High Court Division. Later, in 2005, the Appellate Division likewise upheld the death penalty. The Appellate Division also denied the review petition in the same year. It's interesting to note that the trial was conducted under the Prevention of Repression of Women and Children Act even though the defendant was a kid according to the then-current Children Act. The Bangladesh Legal Aid and Services Trust (BLAST) intervened at this point and contested the legality of the statute. In 2010, the High Court Division partially upheld the petition after ruling the law unconstitutional, but it declined to abolish the death penalty. In spite of BLAST's appeal to the Appellate Division, the death penalty was once again affirmed in 2015, despite the victim's youth and the brutality of the crime. Due to Shukur Ali's age at the time of the offense, the Appellate Division modified his death sentence to life in prison. Consequently, the flagrant violation of the rules prohibiting the execution of children was eventually corrected.<sup>44</sup>

### ***Lack of Good Governance***

The exercise of power through political and institutional systems that are open, accountable, and promote public engagement is referred to as good governance. In Bangladesh, children suffer the most from poor governance<sup>45</sup>. Many parents are striving to make ends meet while dealing with socioeconomic issues like poverty, underemployment and unemployment, a lack of basic utilities, and other issues. All of these issues caused widespread violations of children's rights. Due to the lack of organized structures and resources, safeguarding children's rights and protecting them from all forms of violence and torture remains a major priority. The Children Act of 2013 has set forth some ambitious initiatives in light of the UNCRC provision, including the creation of Child Welfare Boards at all levels of the nation, the establishment of a Child's Affairs Desk at the police station, the appointment of the necessary officials, children courts, family institutional care, and a few others. Realistically, it calls for a big administrative infrastructure, skilled human resources, and robust financial backing.

The Children Act of 2013 is now having a difficult time being implemented due to a lack of collaboration amongst various government ministries. There isn't a separate children's directorate at the moment. 23 ministries and divisions that deal with matters relating to children

<sup>43</sup> Md. Shukur Ali and others Vs. The State (2022) 16 SCOB (2022) AD

<sup>44</sup> Khan Tahsin, Protecting the rights of a child offender The Bangladesh perspective, 2020, accessed 26 September 2023, <https://www.thedailystar.net/opinion/human-rights/news/protecting-the-rights-child-offender-1863526>

<sup>45</sup> Policy Brief: The situation of children in Bangladesh April 2020, accessed 26 September 2023, <https://rapidbd.org/wp-content/uploads/2020/05/Policy-Brief-Situation-Analysis-of-Children-in-Bangladesh.pdf>

are coordinated by the Ministry of Women and Children's Affairs (MoWCA). To cooperate with this many different ministries and divisions would be incredibly challenging for MoWCA to do given their current administrative and financial setup. The current legal procedures are being hampered by a lack of institutional accountability, coordination, and rigorous monitoring mechanisms. Severe delays in the legislative and judicial processes prevent the offenders from receiving exemplary punishment. Many of the One Stop Crisis Center beneficiaries' children even choose not to report any legal actions against the offenders.<sup>46</sup> Ineffective political will and widespread corruption are further obstacles to the Children Act of 2013's successful implementation. According to the Global Corruption Perception Index (CPI) 2022<sup>47</sup> of Transparency International (TI), Bangladesh was placed as the 12th most corrupt nation out of 180 nations in the globe and second in South Asia. The foundation of everyone in the community, especially the most vulnerable members like children, women, and girls, is good governance. It is undeniable that socioeconomic problems like unemployment, poverty, bad governance, and a lack of necessities, among others, affect how well these rights are exercised.

## RECOMMENDATIONS

After a critical evaluation of the provisions of the Children Act, 2013, the following recommendations are proposed.

1. The Children Act, 2013 is being poorly implemented in Bangladesh due to inadequate implementation, a lack of experience, and inadequate resources. It is crucial to note that there is a vast difference between signing a law and putting it into effect. The application of the law should be the main priority in order to improve the lives of children. The government must demonstrate a commitment to enacting the law, as must all other parties involved. The duty bearers should continue to be put under pressure to consider the best interests of children and take the appropriate action. The Children Act will be very beneficial to society and the country if its provisions are implemented correctly and adhered to.
2. The rights of children in Bangladesh ought to be widely known and understood. It is important to educate parents, guardians, children, and those who carry out duties about their rights and associated obligations. The 2013 Children Act's provisions ought to be covered in both primary and secondary school curricula nationwide. This is done to teach the next generation of citizens about their duties and rights, as well as to instill in them a sense of

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<sup>46</sup> Hossain Delowar, Child Rights Governance, the Daily Star, April 10, 2018, accessed 26 September 2023, <https://www.thedailystar.net/law-our-rights/child-rights-governance-1560721>

<sup>47</sup> Corruption Perceptions Index, 2022, accessed 26 September 2023, [https://reliefweb.int/report/world/corruption-perceptions-index-2022?gclid=CjwKCAjwkeqkBhAnEiwA5U-uM5DZo7HXYcwT0nJ2t7Hs043LWm7RG9wDlgle6B3XhkyEkCSqJADxABoCJnAQAvD\\_BwE](https://reliefweb.int/report/world/corruption-perceptions-index-2022?gclid=CjwKCAjwkeqkBhAnEiwA5U-uM5DZo7HXYcwT0nJ2t7Hs043LWm7RG9wDlgle6B3XhkyEkCSqJADxABoCJnAQAvD_BwE)

nationalism and patriotism as they grow up and become contributing members of society. Since every right is accompanied by duties and obligations, the content of the Children Act, 2013, along with civic education, will significantly change the direction of our children going forward. The children will be better prepared to be outstanding leaders in the near future with the right orientation and training. We now need to implement the Act properly and raise awareness of it.

3. A sustained and thorough training program on children's rights in Bangladesh is required for important professional groups like law enforcement officers, judges, prison staff, medical and social workers, as well as local government administrators, and traditional and religious leaders. As a result, they will be more knowledgeable and prepared to defend children's rights when interacting and working with them.
4. Implementing free, high-quality basic education is a good idea. A comprehensive social welfare program should be established by the government to help widows, single parents, and parents with modest incomes care for their children. Employers of labor, both private and public, should offer day-care facilities and nurseries in their workplaces so that nursing mothers can bring their infants to work for good care.
5. It is also suggested that the people of Bangladesh have a decent education in order to improve their outdated attitudes toward women and girls. It is important to emphasize and condemn all detrimental traditional and cultural behaviors that target children, including the immediate threat of marrying off a girl child. It is alarming that parents continue to engage in negative cultural behaviors despite the Children Act of 2013 being law. Therefore, often the legislation itself is not the problem but rather how well it is applied.
6. Social and economic well-being should come first, followed by good government. It is impossible to overstate the significance of good governance as a foundation for the defense and enjoyment of children's rights. The government should be eager and willing to defend the rights of all citizens, including children. The government should place a high focus on providing citizens with basic social amenities and social welfare services including portable water, energy, education, healthcare, security of lives and property, and a viable and brisk economy. When all of these are in place, they create a conducive atmosphere for children to enjoy their rights as outlined in the Children Act of 2013, which was passed in 2013.

## CONCLUSION

This study looked at the discrepancies between the Children's Act of 2013's stated goals and the actual implementation of those goals with regard to children's rights in Bangladesh and the effects of that act specifically on children's lives in Bangladesh. The Children Act of 2013 aimed

for some ambitious initiatives in light of the UNCRC provision, including the creation of Child Welfare Boards at all levels of the country, the establishment of a Child's Affairs Desk at the police station, the appointment of the necessary officials, children courts, family institutional care, and a few others. Realistically, it calls for a big administrative infrastructure, skilled human resources, and robust financial backing. Currently, one of the biggest obstacles to the implementation of any of the 2013 Children Act's provisions is a lack of collaboration across several government agencies. Since the Act's rules are missing, its implications have not yet been put into reality, and as a result, it is losing credibility. In approving the convention, the UN General Assembly urged all signatory nations to make the text of the agreement widely known and to have it displayed, read, and explained, primarily in schools and other educational facilities. As was previously noted, the political leadership must establish the political will to stop corrupt practices and enforce the application of the legislation if the Children Act of 2013 is to achieve any significant degree of implementation. To demonstrate that they are carrying out the mandate freely granted to them during elections, political leaders must show a strong interest in the welfare and wellbeing of their constituents. Children suffer most from poor leadership. Many parents are striving to make ends meet while dealing with socioeconomic issues like poverty, underemployment and unemployment, and a lack of basic utilities. This in turn has an impact on the standard of living they can give their kids. If Bangladeshi children are to receive the full benefits of the 2013 Children Act, this issue must be resolved. It should be mentioned that the Children Act, 2013, which was adopted in Bangladesh more than ten years ago, is currently required for revision and a general review due to the numerous issues that have arisen throughout the course of its implementation. Since it was domesticated in the nation, a lot has changed for the instrument as an international one. Therefore, a comprehensive assessment is essential to take into account current global best practices.