

## SAFEGUARDING JUVENILE RIGHTS: EVALUATING BANGLADESH'S JOURNEY TOWARDS JUSTICE FOR STREET CHILDREN IN DHAKA CITY AREA

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### Abstract

*Ensuring the protection of child rights and support towards improving their life and safeguarding them from abusive treatment affirmed means protecting children in a welfare society. Legal safeguards are a crucial aspect of modern society for ensuring the welfare and protection of children's rights. This paper examines the progress made by Bangladesh in safeguarding children's rights in conflict with the law, with a specific focus on the juvenile justice system (JJS) and particularly analysing the existing legal framework nationally and globally. Based on a consolidated Qualitative Data Analysis (QDA) approach of Thematic Analysis (TA) and case-built Content Analysis (CA) of secondary sources, the study attempted to explore the paradigms of the existing legal framework for juvenile justice, Bangladesh's progress in implementation of CRC, and stakeholder's role when found juveniles in conflict with the laws in parallel. This research efforts to place logical arguments that there is a need for a comprehensive reform of the juvenile justice system (JJS) in Bangladesh. It emphasises ensuring justice for juveniles and safeguarding their rights when in conflict with the law because of the coordination and harmonisation gaps among the stakeholders. Finally, by proposing a model of balanced coordination among stakeholders, the study concluded that an innovative, well-equipped e-technological adaptation could bring an effective JJS, and that would urgently need to be introduced to safeguard children's rights aligned with the SDGs in Bangladesh.*

**Keywords:** Juvenile Justice, Children in Conflicts, Safeguards, Justice System, Bangladesh.

## **Introduction**

Children are one of the most vulnerable clusters in society and require special protection to ensure their rights are shielded. They have been facing various encounters and risks, including ruining their rights, deficient access to justice, and exposure to violence and exploitation. In recent years after covid19 pandemic, there has been an increasing concern about treating “children in conflict with the laws (CCL)”. Bangladesh has been in a leading position since the beginning of a historic initiative of the UN on the protection of children and juvenile justice. Bangladesh has been one of the pioneer promoters parties of the UNCRC<sup>1</sup>, likely as it found its involvement in many international human rights agreements to safeguard children’s rights. In line with “Article 28(4) of the Constitution of the People’s Republic of Bangladesh, 1972<sup>2</sup> provides children’s positive activity and judicially enforceable fundamental rights”. Based on the same provisions, “the safeguards are established state policy ideas that guide national human rights policies and their mandate under the Constitution<sup>3</sup>, the juvenile justice system has undergone several reforms over the years, but there are challenges in protecting children’s rights when in a skirmish with the law.”<sup>4</sup> Children are often arbitrarily detained, tortured, mistreated while in detention, and deprived of their freedom for minor, nonviolent offences or without engaging in any offences.<sup>5</sup> To address these issues, the government of Bangladesh has recently taken several initiatives. In 2009, a high-level Juvenile Justice Task Force was secured to identify priority areas for action<sup>6</sup>. The Children Act 2013(CA-13)<sup>7</sup> was an important step forward and was introduced to ensure children's rights in contact with the law. However, its efficacy has been called into question.

Furthermore, CCLs are often subjected to suppression and mistreatment by law enforcement officials, which violates their rights and undermines the integrity of the juvenile justice

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<sup>1</sup> United Nation, *United Nations Convention on the Rights of the Child (UNCRC)*, 10 SAGE ENCYCL. CHILD. CHILD. STUD. (2020).

<sup>2</sup> Bangladesh Constitution, *The Constitution of the People’s Republic of Bangladesh Government of the People’s Republic of Bangladesh* (1972).

<sup>3</sup> *Id.*

<sup>4</sup> Kudrat E Khuda, *Juvenile Delinquency, Its Causes and Justice System in Bangladesh: A Critical Analysis*, 7 J. SOUTH ASIAN STUD. 111 (2019).

<sup>5</sup> MURRAY POLNER & JIM O’GRADY, *THE REST OF THEIR LIVES* (2018).

<sup>6</sup> Jason Adam Wasserman, *At home on the street: people, poverty, and a hidden culture of homelessness*, 48 CHOICE REV. ONLINE 48 (2010).

<sup>7</sup> Government of the People’s Republic of Bangladesh, *The Children Act 2013*, [www. bdlaws.gov.org](http://www.bdlaws.gov.org) (2016).

system(JJS).<sup>8</sup> UNICEF Bangladesh addressed that “despite these challenges, some recent initiatives have been taken by the Bangladesh government to reform the juvenile justice system and improve the protection of children’s rights.”<sup>9</sup> The government has established specialised courts and trained judges and lawyers to handle juvenile cases<sup>10</sup>. The government has also censured child-friendly spaces within detention centres and developed rehabilitation programs to support CCL. This evaluation is necessary to identify gaps in the legal framework and the policies and programs that support its implementation. By reviewing the relevant literature and analysing the current state of juvenile justice in Bangladesh, this paper looks into the insights of strengths and weaknesses of the legal measures to support the implementation of juvenile justice in Bangladesh. This study examined Bangladesh’s (CA-13) legislation and regulations to determine how effectively they protect children who breach the law and how well juvenile justice works<sup>11</sup>. To assess “the effectiveness of the juvenile justice system in Bangladesh in safeguarding the rights of children in conflict with the law and to identify the challenges Bangladesh faces in ensuring justice for juveniles and protecting their rights for the assessment of underlying progress”. On the other hand, “it needs to evaluate the initiatives taken by the government of Bangladesh to reform the juvenile justice system and improve the protection of children’s rights to determine the extent to which Bangladesh has implemented the Convention on the Rights of the Child-1989(CRC) concerning juvenile justice.”<sup>12</sup> This study addressed the benefit of the policymakers, practitioners, and academics in strengthening the (CA-13) and safeguarding children in confrontation with the law.<sup>13</sup>

### **Definitions and Terms**

*Justice* is the fair and equitable treatment of individuals under the law without discrimination or prejudice.<sup>14</sup> *Juveniles* are individuals who are under the age of 18 and are considered minors under the laws<sup>15</sup> on *Children’s rights*. The UN-CRC defines “children’s rights as universal human rights that apply to all children under the age of eighteen.”<sup>16</sup> *Juvenile Offender* means

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<sup>8</sup> UNICEF, EVERY CHILD COUNTS: REVEALING DISPARITIES, ADVANCING CHILDREN’S RIGHTS. (2014), <https://eric.ed.gov/?id=ED560009>.

<sup>9</sup> BLAST-BANGLADESH LEGAL AID SERVICE TRUST & REFORM INTERNATIONAL)-PRI, *The Children Act 2013: A Commentary by Justice Imman Ali Bangladesh Legal Aid and Services Trust Penal Reform International*, (2013), [www.penalreform.org/keep-informed](http://www.penalreform.org/keep-informed).

<sup>10</sup> Evaluation Division, *Street-connect Children in Dhaka and Politics of Violence*.

<sup>11</sup> Bangladesh Legal BLAST-BANGLADESH LEGAL AID SERVICE TRUST AND INTERNATIONAL)-PRI, *supra* note 9.

<sup>12</sup> Nation, *supra* note 1.

<sup>13</sup> UNICEF, *supra* note 8.

<sup>14</sup> Convention on the Rights of the Child | UNICEF, <https://www.unicef.org/child-rights-convention> (last visited Aug 15, 2021).

<sup>15</sup> *Id.*

<sup>16</sup> United Nation, *supra* note 1.

included a “child”, and “youthful offender” is also found in section 2 of the CA-13<sup>17</sup>. “A child is defined as a person under the age of 18 years, and a youthful offender means any child who has been found to have committed an offence.”<sup>18</sup> *Conflict with the law* refers “to situations where a juvenile has committed or is suspected of committing an offence and is brought before a court or other judicial body”<sup>19</sup>. The “*Juvenile Justice System* is the legal system that deals with juvenile offenders and their rehabilitation and aims to provide fair and equitable treatment of juveniles under the law.”<sup>20</sup> It includes laws, customs and practices, methods, strategies, provisions, and agencies designed to deal with juvenile offenders<sup>21</sup>. Juvenile justice encompasses resolving legal issues involving minors and investigating and treating “the underlying causes of criminal behaviour and the development and implementation of strategies to deter it.”<sup>22</sup> Under this overarching framework, three primary areas of inquiry are fundamental to restorative justice: To keep young men and women out of trouble with the law and the formalised criminal justice process, it is essential to take preventative measures. The goal of diversion is to keep young people out of prison by directing them to society and restorative programs that may help them understand and change the dynamics that led to their offending actions. Human rights preservation for juvenile offenders, to prevent future criminal behaviour, encouraging positive behaviour change and easing the readjustment process back into the social structure<sup>23</sup>. The *CRC* is a well-accepted treaty that outlines “the fundamental rights of all children, including the right to protection, education, health, and contribution to decision-making.”<sup>24</sup>

### **Conceptual Framework**

The conceptual framework is grounded on “the Human Rights Approach and the Child-friendly Justice Approach.”<sup>25</sup> The justice Approach emphasises “the importance of guaranteeing that the justice scheme is accessible, child-sensitive, and respects children's rights in contact with

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<sup>17</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

<sup>18</sup> *Id.* Sec 4.

<sup>19</sup> *Id.* Sec, 2.

<sup>20</sup> *Id.*

<sup>21</sup> UN, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*, PREVENTION OF AND RESPONSES TO VIOLENCE AGAINST CHILDREN WITHIN THE JUVENILE JUSTICE SYSTEM 25 (2021).

<sup>22</sup> UNGA, *UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)*, A/RES/45/112 1 (1990).

<sup>23</sup> General Assembly et al., *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, PREVENTION OF AND RESPONSES TO VIOLENCE AGAINST CHILDREN WITHIN THE JUVENILE JUSTICE SYSTEM 45 (2021).

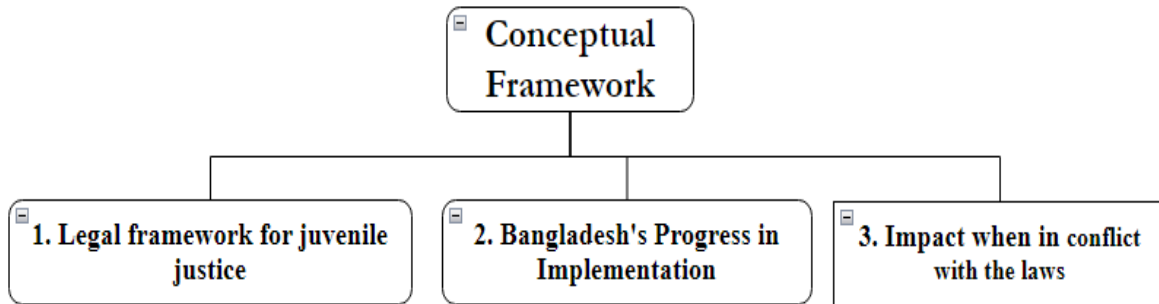
<sup>24</sup> United Nation, *United Nations Convention on the Rights of the Child (UNCRC)*, 1989

<sup>25</sup> EVA BREMS, ELLEN DESMET & WOUTER VANDENHOLE, *CHILDREN’S RIGHTS LAW IN THE GLOBAL HUMAN RIGHTS LANDSCAPE: ISOLATION, INSPIRATION, INTEGRATION?* (2017).

the law”. The Human Rights approach emphasises “the importance of protecting the fundamental rights of children, including their right to life, education, health, and protection from violence and exploitation.”<sup>26</sup> Conceptual framework for this study is organised around **three** primary constructs-

***Legal framework for juvenile justice***

This construct examines “the legal framework for protecting children’s rights” in Bangladesh,



specifically focusing on the Children Act of 2013<sup>27</sup>. This framework will investigate how well the legal system conforms to the Agreement on the Rights of the Child and other global norms such as the Beijing Guidelines, Ryadh Guideline and Havan Conventions aligning with the CRC.

***Bangladesh’s Progress in Implementation***

This construct examines the implementation of the legal framework in practice, specifically looking at the extent to which laws and policies are being followed and the factors that may hinder or facilitate implementation.

***Impact when in conflict with the laws***

This construct examines the impact of laws and policies on “children's rights in conflict and contacts with the law and the state of juvenile justice”. This construct will use a mixed methods approach in analysing quantitative data from secondary sources, such as official government statistics, reports, and surveys, as well as qualitative data from interviews with key stakeholders. The relationship between these constructs is illustrated in the conceptual framework above.

**Literature Review and problem statement**

<sup>26</sup> SONJA C. GROVER, CHILDREN DEFENDING THEIR HUMAN RIGHTS UNDER THE CRC COMMUNICATIONS PROCEDURE (2015).

<sup>27</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

A PhD research study highlighted the challenges and prospects of the JJS in Bangladesh<sup>28</sup>. He argued that the existing JJS has numerous shortcomings in ensuring children's rights in conflict with the law. Another study by<sup>29</sup> critically evaluated the CA-13 in Bangladesh and identified various shortcomings in its implementation<sup>30</sup>. The author emphasised, “the need for reforms to ensure the protection of children’s rights”. A study discussed the challenges and opportunities in promoting child rights in Bangladesh. The author decorated the need for “the government to take a more proactive role in protecting children's rights.” Another study identified the “challenges children face in conflict with the law in Bangladesh and emphasised the need for a comprehensive reform of the juvenile justice system.”<sup>31</sup> Another study discussed “the challenges in protecting children's rights in conflict with the law in Bangladesh.”<sup>32</sup>. The authors “highlighted the need for a comprehensive legal framework to protect children’s rights. Another study critically reviewed the juvenile justice system in Bangladesh and identified various shortcomings in its implementation.”<sup>33</sup> It discussed the issues and challenges in promoting child justice in Bangladesh<sup>34</sup>. The author “emphasised the need for the government to take a more proactive role in promoting child rights.”<sup>35</sup> Another provided “an overview of the juvenile justice system in Bangladesh and highlighted the need for a comprehensive legal framework to protect children's rights in conflict with the law.”<sup>36</sup> A study discussed “the judiciary's role in protecting children’s rights in Bangladesh.”<sup>37</sup> The authors emphasised “the need for the judiciary to play an active role in promoting child rights. The study provided an overview of the juvenile justice system in Bangladesh and highlighted the need for reforms to ensure the protection of children’s rights”.

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<sup>28</sup> Ahmed, M.M.A.H., 2015. Towards a child-centered juvenile justice system in Egypt: A situation analysis of law and practice.

<sup>29</sup> Haradhan Kumar Mohajan, *Child Rights in Bangladesh*, 2 J. SOC. WELF. HUM. RIGHTS 207 (2014).

<sup>30</sup> Sultana, S., Pritha, S.T., Tasnim, R., Das, A., Akter, R., Hasan, S., Alam, S.R., Kabir, M.A. and Ahmed, S.I., 2022, April. ‘shishushurokkha’: A transformative justice approach for combating child sexual abuse in bangladesh. In Proceedings of the 2022 CHI Conference on Human Factors in Computing Systems (pp. 1-23).

<sup>31</sup> Leonardsen, D. and Andrews, T., 2022. Youth Justice Reforms in Norway: Professional Support for the Panopticon Society?. *Youth Justice*, 22(1), pp.85-100.

<sup>32</sup> Khuda, *supra* note 4.

<sup>33</sup> Bashir Uddin & Khan Yanwen, *A Comparative Analysis between the Juvenile Justice Process of Bangladesh and China*, 66 17 (2018).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Nahid Ferdousi, *Book Review on Juvenile Justice System in Bangladesh by* (2019).

<sup>37</sup> Md Emran Parvez Khan & Md Abdul Karim, *The Prevention of Women & Children Repression Act 2000: A study of implementation process from 2003 to 2013*, 22 IOSR J. HUMANIT. SOC. SCI. 34 (2017).

Another study reviewed the CA-13 in Bangladesh and “identified various shortcomings in its implementation”.<sup>38</sup> The author emphasised the need for reforms to ensure the protection of children’s rights<sup>39</sup>. It discussed “the legal aid system’s role in protecting children’s rights in conflict with the law in Bangladesh.”<sup>40</sup> The authors “emphasised the need for a more comprehensive legal aid system to ensure the protection of children’s rights.”<sup>41</sup> Another study “critically reviewed the CA-13 in Bangladesh and identified various shortcomings in its implementation.”<sup>42</sup> The author emphasised “the need for a more comprehensive legal framework to ensure the protection of children’s rights. Similarly, another study analysed the legal framework and implementation of the juvenile justice system in Bangladesh and identified various shortcomings. The author emphasised the need for a comprehensive legal framework to protect children's rights in conflict with the law.”<sup>43</sup>

It critically appraised Bangladesh's “CA-13” and identified shortcomings<sup>44</sup>. The authors “emphasised the need for reforms to protect children's rights. It critically appraised the CA-13 in Bangladesh and identified various shortcomings.”<sup>45</sup> The authors emphasised “the need for reforms to ensure the protection of children’s rights. It discussed the challenges children face in conflict with the law in Bangladesh.” It emphasised “the need for a more comprehensive legal framework to ensure the protection of children’s rights.”<sup>46</sup> it provided “an overview of the juvenile justice system in Bangladesh and highlighted the need for reforms to ensure the protection of children’s rights.”<sup>47</sup> Another study analysed “the legal framework and implementation of the juvenile justice system in Bangladesh and identified various shortcomings. The authors emphasised the need for a comprehensive legal framework to protect juveniles.”<sup>48</sup>

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<sup>38</sup> Sumaiya Khair, *Street children in conflict with the law: The Bangladesh experience*, 2 ASIA PACIFIC JOURNAL ON HUMAN RIGHTS AND THE LAW 55 (2001).

<sup>39</sup> *Id.* AND, *supra* note 25.

<sup>40</sup> *Id.*

<sup>41</sup> Nahid Ferdousi, *Juvenile justice system in Bangladesh*, 9 (2012).

<sup>42</sup> BULA BHADRA, CRIME, CRIMINAL JUSTICE, AND THE EVOLVING SCIENCE OF CRIMINOLOGY IN SOUTH ASIA (2017).

<sup>43</sup> Muhammad Mahbubur Rahman, *Protection of Children in Conflict with the Law in Bangladesh*, 12 379 (2019).

<sup>44</sup> *Id.*

<sup>45</sup> Md Abul Kalam et al., *Use of designing for behaviour change framework in identifying and addressing barriers to and enablers of animal source feeding to children ages 8–23 months in Bandarban Hill District in Bangladesh: Implications for a nutrition-sensitive agriculture progr*, MATERN. CHILD NUTR. (2023).

<sup>46</sup> Sally Atkinson-Sheppard, *Street Children and Dhaka’s Gangs: Using a Case Study to Explore Bangladeshi Organized Crime*, STR. CHILD. DHAKA’S GANGS USING A CASE STUDY TO EXPLOR. BANGLADESHI ORGAN. CRIME (2018).

<sup>47</sup> Uddin and Yanwen, *supra* note 35.

<sup>48</sup> Mohajan, *supra* note 30.

In most of Asian countries, implementing laws and policies aimed at protecting CCL is inadequate. For example, in Bangladesh, the implementation of the CA-13 has been “criticised for its failure to adequately protect the rights of children in conflict with the law” (Ahmed & Uddin, 2018; Akter & Hoque, 2021; Alam & Hasan, 2019; Biswas & Alim, 2020; Islam & Talukder, 2019; Kabir, 2021). Similarly, in India, “the Juvenile Justice (Care and Protection of Children) Act 2015 has been criticised for failing to address issues such as the high number of children in detention and the lack of access to legal representation.”<sup>49</sup> In contrast, some countries have successfully “implemented laws and policies that effectively protect children’s rights in conflict with the law. For example, in Norway, the Juvenile Justice System is highly effective, focusing on rehabilitation rather than punishment.” The system has been praised for its low recidivism rates and “the use of alternative measures to detention.”<sup>50</sup> Similarly, in South Africa, the Child Justice Act 2008 provides a framework for protecting children in conflict with the law, focusing on diversion and restorative justice.”<sup>51</sup>

After the above dialogue, the literature gap and problem statement are underlying to explore the issues regarding justice accessibility and its progress scheme. So, the effectiveness of “the juvenile justice system in Bangladesh in ensuring justice for juveniles and protecting their rights when in conflict with the law is vague, whereas the significant challenges Bangladesh faces in safeguarding CCL are also ambiguous.” Besides these, what initiatives have been taken by the government of Bangladesh to reform the juvenile justice system and improve the protection of JJS and their rights thereof are also unclear with the efficiency measurements and to what extent Bangladesh has implemented the Convention on the Rights of the Child concerning the juvenile justice system and the implications of the current state of the juvenile justice system in Bangladesh for the well-being of juveniles in conflict with the law and the overall development of the country is also required to explore.

### **Methodology**

This interpretive research uses qualitative primarily and a few quantitative methods and judicial action studies based on secondary sources. However, qualitative approaches help study complex topics or understudied regions by focusing on how individuals interpret and make sense of their experiences to gain insight into social reality.<sup>52</sup> Secondary sources, such as books,

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<sup>49</sup> Shailesh Kumar, *Shifting Epistemology of Juvenile Justice in India*, 41 CONTEXT. INT. 113 (2019).

<sup>50</sup> Uddin, Chowdhury, and Ullah, *supra* note 32.

<sup>51</sup> LEWIS APTEKAR & DANIEL STOECKLIN, CHILDREN AND HOMELESS YOUTH.

<sup>52</sup> Mohajan, *supra* note 30.



articles, case laws, and legislation, have been analysed to elucidate the fundamental idea of juvenile justice and generate an evaluation of Bangladesh's performance in protecting children's rights when confronted with the law. In-depth descriptions of contexts, people, interactions, acts, events, views, ideas, and convictions; and first-hand accounts from those who have witnessed the phenomenon. To better understand the present gaps in the JJS and the effects of the current state of operational initiatives, a consolidated qualitative data analysis (QDA) approach is being used". Analysing qualitative data seeks to synthesise and explain "what" and "how" random events occur, while efficiency analysis synthesises effectiveness.<sup>53</sup>

The qualitative portion of data analysis uses theme analysis (TA) to identify the precise crossroads and content analysis (CA) to explore potential domains where the juvenile justice system exists and is being functioned. Because TA is a user-friendly, malleable, and well-liked method for analysing qualitative data that finds, organises, and provides context for overarching meaning groups (themes) in a dataset. Besides this, stakeholder analysis is also employed for mapping the role of different layers in exercising power execution of the juvenile justice structure to outlay the inter-relational effects and bridging the gap among people, judges, lawyers and even victims as well as the protective agencies.

### **Analysis and Discussion on National and International Legal Frameworks**

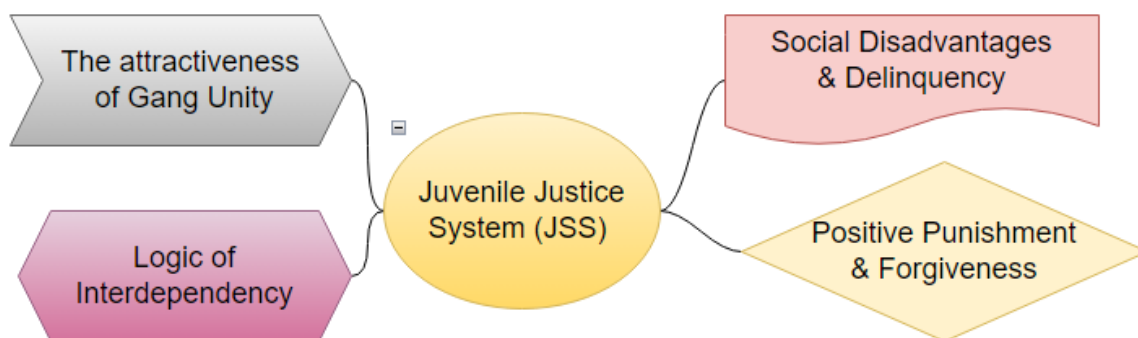
The primary goals of juvenile justice are to safeguard children and youth against repeat offences, assure their rehabilitation, and facilitate a seamless transition back into society. Furthermore, a thorough juvenile justice development program is essential to nurture the youth as deserving citizens of the nation. Instead, shielding them from shame and stopping delinquency is crucial because they are the country's future leaders. Article 28(4) of Bangladesh's Constitution<sup>54</sup> guarantees several fundamental rights to minors. In Bangladesh, "there is no comprehensive juvenile justice system." Instead, several laws have clauses addressing kids who break the law, sometimes making it unclear which law should be implemented. The execution of "laws and policies to protect the rights of children who come into contact with the law differs significantly from country to country." Some nations have been able to effectively defend the rights of children via laws and policies, while others have

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<sup>53</sup> Rohfritsch, A. & Sattar, N.K. (1995). A Critical Review of Judicial Institutions in Relation to the Rights of the Child [Child Study Series]. Rädä Barnen.

<sup>54</sup> Constitution, *supra* note 2.

struggled to do so. If we care about protecting children's rights in legal trouble worldwide, we must keep assessing how well these laws and policies work.



**Figure-1: Normative foundation of JSS**

It is observed that “due consideration must be given to the fact that children come into conflict with the law due to the failure of their parents/guardians or the State to provide adequate facilities for their proper upbringing. The court must play an active role in ensuring children's rights conflict with the law.”

### **Discussions and Findings on Legal Expositions**

For a variety of reasons, the problem of juvenile justice is not given the level of attention and significance that it deserves to be evaluated and maintained in Bangladesh. It is strongly recommended that, while using the JJ method, the global standards and norms and the preexisting laws and norms of the country in question not be adhered to in any instance. Here the legal frameworks and accounts are analysed based on contextual paradigms and focused on the specific cases below.

#### ***“Convention on the Rights of the Child (CRC) (United Nations, 1989)”***

The CRC<sup>55</sup> is a “United Nations-mandated treaty that protects children's civil, political, economic, social, and cultural rights.” It creates specific “obligations for the member state to develop and reform its legal system per its provisions. It recognises that children have the right to be protected from all forms of violence, exploitation, and abuse and that they have the right to participate in decisions that affect their lives.” Bangladesh is a signatory to the CRC and “must protect and promote children’s rights. The CA-13<sup>56</sup> in Bangladesh aims to promote and

<sup>55</sup> Convention on the Rights of the Child | UNICEF, *supra* note 15.

<sup>56</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

protect children's rights as recognised in the CRC. The Act includes provisions for protecting children from violence, exploitation, and abuse and their participation in decisions that affect their lives.”

The UNCRC<sup>57</sup> is a global instrument that outlines the fundamental “rights of children, including those in conflict with the law. Article 40 of the UNCRC emphasises the importance of protecting children's rights in conflict with the law, including the right to legal representation, the right to be heard and to participate in the legal process, and the right to be treated with dignity and respect.” Most countries have ratified the UNCRC, and “its principles are reflected in many national laws and policies. One of the critical issues in protecting children in conflict with the law is the need for specialised justice systems that consider children's unique needs and vulnerabilities. The Juvenile Justice System is a specialised system designed to provide a more rehabilitative approach to juvenile offenders.” However, “implementing these systems is often challenging, and there are concerns about the effectiveness of such systems in protecting children's rights.”

The “**Riyadh Guidelines on Justice for Juveniles**”<sup>58</sup> is a set of international guidelines that provide recommendations for protecting and promoting juvenile justice systems worldwide. These guidelines “were adopted by the United Nations Economic and Social Council in 1990 and are based on international standards and principles, such as the United Nations Convention on the Rights of the Child.”

The Riyadh Guidelines<sup>59</sup> emphasise “the importance of recognising children's distinct needs and vulnerabilities in conflict with the law and highlight the necessity of adopting measures that focus on rehabilitation and reintegration into society.” The guidelines cover various aspects of juvenile justice, including legal and procedural safeguards, alternative measures to detention, access to justice, and post-release support.

In a critical analysis of the Riyadh Guidelines<sup>60</sup>, it is essential to acknowledge their positive contributions to juvenile justice. The guidelines provide a comprehensive framework for countries to develop and implement juvenile justice systems that adhere to international standards. They emphasise the principles of proportionality, individualisation, and diversion, which are crucial for ensuring the child's best interests and preventing further harm.

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<sup>57</sup> Nation, *supra* note 1.

<sup>58</sup> UNGA, *supra* note 23.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

However, it is also essential to recognise the limitations and challenges in implementing the Riyadh Guidelines<sup>61</sup>. One key challenge is countries' varying degrees of commitment and capacity to align their juvenile justice systems with the guidelines thoroughly. Many countries still face significant legal frameworks, resources, and infrastructure gaps to implement the recommended measures effectively.

Additionally, “cultural and contextual factors may influence the interpretation and application” of the Riyadh Guidelines<sup>62</sup> in different jurisdictions. Local customs, traditions, and socio-economic conditions can impact how juvenile justice is understood and implemented. Ensuring that the guidelines are adapted to each country's specific needs and realities is crucial while maintaining the core principles and standards they embody.

Furthermore, “monitoring and evaluation mechanisms are essential to assess the effectiveness of the Riyadh Guidelines<sup>63</sup> in achieving their intended outcomes.” Regular review and reporting on the implementation of the guidelines can help identify areas of improvement and inform policy and practice reforms.

The Riyadh Guidelines<sup>64</sup> on Justice for Juveniles provide a valuable framework for protecting CCL. They promote internationally recognised principles and standards for juvenile justice systems. However, their practical implementation requires ongoing commitment, resources, and adaptation to local contexts. Continuous evaluation and improvement are necessary “to ensure that the rights and needs of juvenile offenders are effectively addressed and that they have access to fair and rehabilitative justice processes.”

**The Havana Rules<sup>65</sup>**, officially known as the “United Nations Rules for the Protection of Juveniles Deprived of their Liberty, were adopted by the United Nations General Assembly in 1990. These rules aim to safeguard the rights and well-being of juveniles deprived of their liberty, whether in detention, correctional facilities, or other institutional settings.” While the Havana Rules<sup>66</sup> represent an essential step in promoting juvenile rights, a critical examination reveals certain limitations and areas for improvement.

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<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup>United Nation, *supra* note 1.

<sup>66</sup> *Id.*

One of the key criticisms of the Havana Rules<sup>67</sup> is the lack of binding legal force. Unlike international treaties, the rules are non-binding and do not impose legal obligations on member states. Consequently, their implementation and enforcement depend on the willingness of individual states to incorporate them into their national legal frameworks. This voluntary nature may lead to inconsistencies in their application and result in varying standards of juvenile protection across different jurisdictions.

Another critique pertains to the age definition of a juvenile. The Havana Rules<sup>68</sup> “define a juvenile as any person under the age of 18 years. While this aligns with the UN-CRC, argue that it fails to consider variations in the age of criminal responsibility in different legal systems. In some jurisdictions, the age of criminal responsibility is lower than 18, leading to potential conflicts in the treatment of juveniles following national laws.”

Additionally, the Havana Rules<sup>69</sup> emphasise “the importance of the rehabilitation and reintegration of juveniles into society. While this objective is commendable, critics argue that the rules do not provide clear guidelines on effective rehabilitation programs and services.” The lack of specific provisions and standards for educational, vocational, and social support programs may hinder the successful reintegration of juveniles into their communities, perpetuating the cycle of recidivism.

Furthermore, the rules emphasise “the use of non-custodial measures and alternatives to detention.” While this approach aligns with modern principles of juvenile justice, it may not fully account for cases where deprivation of liberty is deemed necessary for public safety or in response to severe offences. Striking a balance between the rights of the juvenile and the protection of society remains a challenge that the Havana Rules<sup>70</sup> do not explicitly address.

The Havana Rules<sup>71</sup> represent “a significant effort to protect the rights of juveniles deprived of their liberty, but critical analysis reveals several limitations. The non-binding nature of the rules, the age definition of juveniles, the lack of specific guidelines for rehabilitation, and the heavy emphasis on non-custodial measures warrant further consideration.” To effectively safeguard the rights of juveniles, there is a need for continuous dialogue, research, and

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<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

collaboration to address these shortcomings and ensure that international standards align with evolving principles of juvenile justice.

The **Beijing Rules**<sup>72</sup>, also known as “the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, were adopted by the United Nations General Assembly in 1985. These rules aim to provide guidelines for treating juveniles in the criminal justice system, focusing on promoting their rights, rehabilitation, and reintegration into society.” While the Beijing Rules<sup>73</sup> have influenced juvenile justice policies worldwide, specific critical points must be considered.

**Firstly**, the Beijing Rules<sup>74</sup> emphasise “the child's best interests principle, a fundamental principle in international child rights instruments. However, critics argue that implementing this principle in practice is often subjective and can vary significantly across jurisdictions. The interpretation of the child's best interests may be influenced by cultural, social, and economic factors, which can lead to inconsistencies and disparities in the treatment of juveniles.”

**Secondly**, the Beijing Rules<sup>75</sup> advocate for diversion and non-custodial measures as alternatives to detention. While this “approach is commendable, its effectiveness relies heavily on the availability and accessibility of community-based programs and support systems.” In many countries, there is a lack of resources and infrastructure to implement such measures effectively. As a result, custodial sentences continue to be prevalent, leading to issues of over-incarceration and the potential for negative impacts on the development and well-being of juveniles.

Another critical aspect is the focus on rehabilitation and reintegration. The Beijing Rules<sup>76</sup> emphasise the importance of providing educational, vocational, and psychological support to juveniles during their incarceration and after their release. However, in practice, many countries face challenges in providing adequate resources and specialised services for the rehabilitation and reintegration of juveniles. Limited access “to quality education, vocational training, and employment opportunities can hinder their successful reintegration into society, leading to a higher risk of recidivism.”

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<sup>72</sup> UN UN, *supra* note 22.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

The Beijing Rules<sup>77</sup> recommend “the separation of juveniles from adults in detention facilities to protect them from harm and negative influences.” However, in many countries, due to resource constraints or inadequate infrastructure, juveniles are still close to adult offenders, increasing their vulnerability and exposing them to potential abuse, exploitation, and negative influences.

Overall, while the Beijing Rules<sup>78</sup> provide “a comprehensive framework for the administration of juvenile justice, their practical implementation requires substantial commitment and resources from governments.” There is a need for continuous monitoring, evaluation, and reform to address the challenges and gaps in the system. Efforts should be made “to ensure that the rights and well-being of juveniles are protected, and their rehabilitation and reintegration into society are prioritised.”

**“Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict”<sup>79</sup>**, adopted by the United Nations in 2000, “sets the minimum age of 18 for recruiting and using children in armed conflict. It obligates states to take preventive measures to deter such recruitment and to provide rehabilitation and reintegration support for child soldiers.” Bangladesh ratified this protocol in 2000<sup>80</sup>. However, despite this commitment, critical concerns exist regarding its implementation and effectiveness.

While the protocol establishes 18 as the minimum age, there have been reports and allegations of child recruitment and use in armed conflicts in some areas of Bangladesh. Insufficient monitoring and enforcement mechanisms raise questions about the country’s compliance with the protocol’s provisions. Additionally, “the rehabilitation and reintegration programs for former child soldiers in Bangladesh have faced challenges regarding accessibility, adequacy, and sustainability.” Limited resources and coordination gaps among relevant stakeholders further hinder the successful reintegration of these children into society.

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> J. Todres, M.E. Wojcik & C.R. Revaz, *Appendix II. Optional Protocol To The Convention On The Rights Of The Child On The Involvement Of Children In Armed Conflict*, 2173 UNITED NATIONS CONV. RIGHTS CHILD AN ANAL. TREATY PROVISIONS IMPLIC. U.S. RATIF. 333 (2009).

<sup>80</sup> *Id.*

**“Optional Protocol to the Convention on the Rights of the Child on the Sale of children, child prostitution, and child pornography”**<sup>81</sup>, also adopted in 2000, calls for criminalising these heinous acts. It requires states to protect child victims and prevent these exploitative practices. Bangladesh ratified this protocol in 2000, reflecting its commitment to combating child exploitation. However, implementing and enforcing laws and policies to address these issues remain a concern.

Despite legislative measures such as the CA-13<sup>82</sup>, which encompasses provisions for “protecting children from all forms of exploitation and abuse, including sexual abuse and exploitation, there are gaps in the enforcement and effectiveness of these laws.” Insufficient resources, lack of specialised training for law enforcement personnel, and societal challenges in addressing these sensitive issues contribute to a situation where child victims often do not receive adequate support and justice.

Bangladesh has ratified the “Optional Protocols on the involvement of children in armed conflict and the Sale of children, child prostitution, and child pornography” Critical gaps and challenges persist in their implementation<sup>83</sup>. Effectively enforcing these protocols requires robust monitoring mechanisms, increased resource allocation, and comprehensive efforts to address the root causes of child exploitation and abuse. Further attention and action are needed to protect children’s rights fully in Bangladesh<sup>84</sup>.

**“The International Covenant on Civil and Political Rights (ICCPR)”**<sup>85</sup>, adopted by “the United Nations in 1966, is a treaty that acknowledges the civil and political rights of individuals, including children.” It emphasises the right to a fair trial and protection against arbitrary detention. While Bangladesh is a signatory to the ICCPR<sup>86</sup>, ensuring the protection of these rights remains an obligation. The CA-13<sup>87</sup> in Bangladesh incorporates provisions to guarantee the fair treatment of children in conflict with the law, including their entitlement to a fair trial.

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<sup>81</sup> J. Todres, M.E. Wojcik & C.R. Revaz, *Appendix III. Optional Protocol To The Convention On The Rights Of The Child On The Sale Of Children, Child Prostitution And Child Pornography*, 2171 UNITED NATIONS CONV. RIGHTS CHILD AN ANAL. TREATY PROVISIONS IMPLIC. U.S. RATIF. 339 (2009).

<sup>82</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

<sup>83</sup> Todres, Wojcik, and Revaz, *supra* note 84.

<sup>84</sup> *Id.*

<sup>85</sup> UN & Resolution 2200A (XXI) of 16 December 1966, *International Covenant on Civil and Political Rights*, UNITED NATIONS 259 (1976).

<sup>86</sup> *Id.*

<sup>87</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.



UN Charter: “The United Nations Charter serves as the foundational treaty of the United Nations, outlining its purposes, principles, and structure. While it does not explicitly address children's rights in conflict with the law, it establishes the fundamental principles of respect for human rights, equality, and non-discrimination, which form the basis for protecting the rights of all individuals, including children.”

**UDHR “(Universal Declaration of Human Rights):** The Universal Declaration of Human Rights is a landmark document adopted by the United Nations General Assembly in 1948.” It proclaims the inalienable rights to which every person is entitled, regardless of age. Several provisions of “the UDHR are relevant to children's rights in conflict with the laws. In Article 3: Everyone has the right to life, liberty, and security of person; Article 5: No one shall be subjected to torture, cruel, inhuman, or degrading treatment or punishment; Article 6: Everyone has the right to recognition everywhere as a person before the law; Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law; Article 9: No one shall be subjected to arbitrary arrest, detention, or exile; Article 10: Everyone is entitled to a fair and public hearing by an independent and impartial tribunal; Article 25: Everyone has the right to a standard of living adequate for the health and well-being of themselves and their family, including medical care and necessary social services.”

**“International Declaration of Child Rights:** The International Declaration of Child Rights is a non-binding document for children's rights. It was adopted by the United Nations General Assembly in 1959.” The key provisions of the International Declaration of Child Rights include “Article 1: Every child shall enjoy all the rights outlined in this Declaration without any discrimination; Article 2: The child shall enjoy special protection and shall be given opportunities and facilities by law and other means to enable them to develop physically, mentally, morally, spiritually, and socially; Article 3: The best interests of the child shall be the primary consideration in all actions concerning children; Article 9: The child shall not be separated from their parents against their will unless it is in their best interests;” Article 14: The child has the right to freedom of thought, conscience, and religion; Article 20: The child who is deprived of their family environment shall have the right to special protection and assistance from the state; Article 40: The child accused of a crime shall be guaranteed the right to a fair and impartial trial.

In addition to the “ICCPR<sup>88</sup>, the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>89</sup> is another treaty adopted in 1966 that recognises individuals' economic, social, and cultural rights, including children. It acknowledges the right to education, health, and an adequate standard of living. As a signatory to the ICESCR<sup>90</sup>, Bangladesh is responsible for safeguarding the rights established in the treaty. Bangladesh also encompasses provisions for protecting the right to education and children's right to health in conflict under the CA-13.”<sup>91</sup>

Although Bangladesh is not a direct concern, even not a signatory to the African Charter on the Rights and Welfare of the Child<sup>92</sup>, adopted by “the African Union in 1990, its principles remain relevant when evaluating the laws and policies under international and national safeguards surrounding the CA-13 in Bangladesh. The African Charter emphasises protecting children from abuse, neglect, exploitation, and discrimination.” These principles align with those recognised in the CRC<sup>93</sup>, which Bangladesh has ratified.

In brief, while Bangladesh has obligations under international treaties such as the ICCPR<sup>94</sup> and ICESCR<sup>95</sup> to protect children's rights, including those in conflict with the law, it is essential to consider the principles outlined in other relevant charters and conventions. By evaluating and aligning national laws and policies with international standards, Bangladesh can strive for a more comprehensive and effective protection of children’s rights.

“The **EU Charter of Fundamental Rights**<sup>96</sup>, along with other related instruments, plays a significant role in protecting the rights of juveniles within the European Union.” However, a critical examination reveals certain areas warrant attention and improvement in ensuring comprehensive and effective juvenile rights protection.

One notable aspect of the EU Charter<sup>97</sup> is its recognition of “children’s rights and specific needs. Article 24 of the Charter<sup>98</sup> emphasises the child's rights, including protection and care.

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<sup>88</sup> UN & Resolution 2200A (XXI) of 16 December 1966, *supra* note 88.

<sup>89</sup> UN, *The United Nations' Specialized Agencies and Implementation of the International Covenant on Economic, Social and Cultural Rights*, THE UNITED NATIONS SYSTEM FOR PROTECTING HUMAN RIGHTS: VOLUME IV 377 (2016).

<sup>90</sup> *Id.*

<sup>91</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

<sup>92</sup> Editors Human Rights Law in Africa, *African Charter on the Rights and Welfare of the Child*, 1 HUM. RIGHTS LAW AFRICA ONLINE 143 (2012).

<sup>93</sup> Nation, *supra* note 1.

<sup>94</sup> UN & Resolution 2200A (XXI) of 16 December 1966, *supra* note 88.

<sup>95</sup> UN, *supra* note 92.

<sup>96</sup> EU, *The Charter of Fundamental Rights of the European Union*, 5 BIOMEDICAL ETHICS 51 (2000).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

Moreover, the Charter acknowledges the child's best interests principle, which should be a primary consideration in all actions concerning children.”

Another relevant instrument is the UN-CRC(UNCRC)<sup>99</sup>, which is widely ratified by EU member states. The UNCRC provides a comprehensive framework for protecting and promoting children’s rights, including those of juvenile offenders. The EU Charter<sup>100</sup> and member states’ adherence to the UNCRC demonstrate a commitment to safeguarding the rights of juveniles.

However, despite these positive steps, specific critical issues persist. One concern is the inconsistency in implementing juvenile justice measures across EU member states. While the EU Charter<sup>101</sup> establishes common standards, the interpretation and application of these standards can vary. This inconsistency can lead to unequal treatment and varying levels of protection for juveniles depending on the country in which they reside.

Furthermore, the detention and rehabilitation of juvenile offenders remain areas of concern. While the EU Charter<sup>102</sup> promotes “the principle of using detention as a measure of last resort, there are instances where juvenile offenders are still subjected to custodial sentences. The emphasis should be exploring alternative measures, such as diversion programs and restorative justice practices, which can provide better outcomes for juveniles and society.”

Providing adequate legal assistance for CCL is crucial. “Access to legal representation and support is essential for ensuring fair and just proceedings. However, there are disparities in the availability and quality of legal aid services across EU member states, which can hinder the effective exercise of juveniles’ rights.”

Moreover, the EU Charter should provide more straightforward guidelines on protecting vulnerable groups of juveniles, such as those with disabilities, migrants, or those belonging to minority communities. These groups may face additional barriers and challenges within the JJS, and specific measures should be in place to address their unique needs and ensure equal confirmation of their rights.

In short, “while the EU Charter of Fundamental Rights and related instruments demonstrate a commitment to protecting the rights of juveniles, some areas require further attention and improvement.” Consistency in implementation, alternatives to detention, access to legal

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<sup>99</sup> Convention on the Rights of the Child | UNICEF, *supra* note 15.

<sup>100</sup> EU, *supra* note 99.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

representation, and the protection of vulnerable groups are critical aspects that must be addressed to ensure comprehensive and effective juvenile rights protection across the European Union.

**American Convention on Human Rights (Organization of American States, 1969):** “The American Convention on Human Rights (ACHR) recognises individuals' civil and political rights in the Americas.”<sup>103</sup> Although Bangladesh is not a signatory to the American Convention, it is still relevant to evaluate the laws and policies in Bangladesh regarding the CA-13<sup>104</sup>. The principles recognised in the American Convention align with those in the ICCPR<sup>105</sup>, which Bangladesh has ratified CRC, and similarly, ACHR is recognised as the fountain of ACHR and ensuring the right to due process and a fair trial, also recognised in the ICCPR<sup>106</sup> and applies to treating CCL.

**SAARC Charter:** “The South Asian Association for Regional Cooperation (SAARC) Charter is a regional treaty among South Asian countries. While it does not explicitly address the rights of children in conflict with the law, it emphasises cooperation among member states to promote social progress and the well-being of the people of South Asia.” The SAARC Social Charter<sup>107</sup> sets the foundation “for member states to develop policies and frameworks to protect children's rights, including those in conflict with the law, in line with international standards and regional cooperation.” SAARC member states have recognised the importance of addressing issues related to trafficking and juvenile justice through regional cooperation. SAARC member countries have been actively combating trafficking in persons, including children, and have adopted several regional initiatives to enhance cooperation<sup>108</sup>.

**“The Children Act 2013(CA-13)”:** Bangladesh adheres to these laws and promotes children’s rights. However, there may be gaps in the law's implementation, necessitating an evaluation of laws and policies concerning the CA-13<sup>109</sup> to ensure “the protection and promotion of children’s rights following international standards. This legislation governs the justice system for children in conflict with the law and children needing protection.”

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<sup>103</sup> OAS, *American Convention on Human Rights, Adopted at the Inter-American Specialized Conference on Human Rights, San Jose, Costa Rica, 22 November 1969*, 24 REFUGEE SURVEY QUARTERLY 158 (2005).

<sup>104</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

<sup>105</sup> UN & Resolution 2200A (XXI) of 16 December 1966, *supra* note 88.

<sup>106</sup> *Id.*

<sup>107</sup> Member states of the South Asian Association for Regional Cooperation, *SAARC Social Charter*, SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION 1 (2004), [http://saarc-sec.org/uploads/digital\\_library\\_document/10\\_Social\\_Charter.pdf](http://saarc-sec.org/uploads/digital_library_document/10_Social_Charter.pdf).

<sup>108</sup> *Id.*

<sup>109</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

The Act establishes juvenile courts and appoints a juvenile court judge in each district of Bangladesh. It also “prohibits the imposition of the death penalty and life imprisonment for offences committed by individuals under 18 years of age. However, the institutions responsible for rehabilitating and reintegrating children, now known as Child Development Centers, such as those in Tongi, Jessore, and Konabari, often lack the necessary staff and resources to achieve their objectives effectively. Consequently, many children in these centres remain at risk of torture, ill-treatment, and other forms of abuse.”

Concerning bail and pre-trial detention, Section 44 of the Act<sup>110</sup> grants police officers “the authority to grant bail to a child, even for non-bailable offences. However, this provision is rarely utilised in practice. Section 49 empowers the court to grant bail and release an arrested child or order their detention in a remand home or place of safety<sup>111</sup>. Nonetheless, children frequently end up in detention without any arrest record due to their parent’s failure to fulfil bail requirements. Additionally, there are no limitations on the duration of pre-trial detention, resulting in children remaining in detention for years awaiting court resolution.”

Section 82 of the CA-13 of Bangladesh acknowledges that “the treatment of children in conflict with the law should adhere to international standards, including the UN-CRC<sup>112</sup> and the Beijing Rules(BR)<sup>113</sup>. This section emphasises the need to consider children's age, maturity, and specific needs in conflict with the law. Moreover, it states that detention should only be used as a last resort and for the shortest possible period.”

Section 83 of the Act underscores the “importance of diversion measures for children in conflict with the law. It stipulates that diversion measures should be employed whenever possible, with the child's best interests as the primary consideration. This section provides a range of diversion measures, including warnings, apologies, counselling, and community service.”

Section 84 emphasises the necessity of a child-friendly justice system<sup>114</sup>. It mandates “the provision of legal assistance to children in conflict with the law and requires legal proceedings to be conducted appropriately for the child’s age, maturity, and understanding.” Furthermore, Section 84 highlights the importance of confidentiality in legal proceedings involving children and the need to protect them from stigmatisation and discrimination<sup>115</sup>.

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<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> Convention on the Rights of the Child | UNICEF, *supra* note 15.

<sup>113</sup> UN, *supra* note 22.

<sup>114</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

<sup>115</sup> *Id.*

While the CA-13<sup>116</sup> of Bangladesh incorporates several provisions “to safeguard children’s rights in conflict with the law, their effectiveness in practice remains a matter of concern. Further research is needed to assess Bangladesh’s progress in protecting children’s rights in this context.”

“The **Penal Code 1860**<sup>117</sup>, the **Code of Criminal Procedure 1898**<sup>118</sup>, and The **Suppression of Violence against Women and Children Act 2000**”<sup>119</sup> also contain provisions regarding CCL. In addition to the UN-CRC(UNCRC)<sup>120</sup>, Bangladesh has “ratified several other relevant global norms, including the United Nations Guidelines for the Prevention of Delinquent Behavior (the “Riyadh Guidelines”)<sup>121</sup>, the United Nations Standard Minimum Rules for the Management of Juvenile Justice (the “Beijing Rules”)<sup>122</sup>, and the United Nations Rules for the Safeguard of Juveniles Disadvantaged of Their Liberty (the “UN Rules”).”<sup>123</sup> Hence, the state must implement laws, regulations, and procedures consistent with the conventions and work toward their stated objectives. Therefore, children needing protection are treated differently from CCL under the CA-13<sup>124</sup>. Bangladesh raised “the minimum age of criminal responsibility from 7 to 9 years in 2004<sup>125</sup>, but the criminal liability of children aged 9 to 12 is still subject to the judicial assessment of their capacity to understand the nature and consequences of their actions<sup>126</sup>. However, the Committee on the Rights of the Child has repeatedly observed that the minimum age of criminal responsibility in Bangladesh is too low and that children between 16 and 18 are treated as adults under section 2 of the CA-13 (Committee on the Rights of the Child). The CA-13 of Bangladesh addresses various issues concerning children in conflict with the law. One such issue is the age of criminal responsibility, which should not be fixed at too low an age level” considering emotional, mental, and intellectual maturity (CA-13).

Moreover, in Bangladesh, birth registration is low, and police “often fail to record or deliberately note an incorrect age to avoid complying with procedural protection, which hampers juvenile justice (Committee on the Rights of the Child). Article 37 of the UN-

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<sup>116</sup> *Id.*

<sup>117</sup> Bangladesh, *The penal code*, 65 MINERVA MED. 3255 (1974).

<sup>118</sup> Government of the People’s Republic of Bangladesh et al., *The code of criminal procedure, 1898*,

<sup>119</sup> The Prevention of Oppression against Women and Children Act, *The Prevention of Oppression against Women and Children Act, 2000* PARLIAM. BANGLADESH (2000), <https://www.iknowpolitics.org/en/2009/03/bangladesh-prevention-oppression-against-women-and-children-act-2000>.

<sup>120</sup> Convention on the Rights of the Child | UNICEF, *supra* note 15.

<sup>121</sup> UNGA, *supra* note 23.

<sup>122</sup> UN, *supra* note 22.

<sup>123</sup> General Assembly et al., *supra* note 24.

<sup>124</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.

<sup>125</sup> Government of Bangladesh, *supra* note 121.

<sup>126</sup> *Id.*

CRC(UNCRC)<sup>127</sup> prohibits the unlawful or arbitrary deprivation of a child's liberty and mandates that arrest, detention, or imprisonment be used only as a last resort and for the shortest appropriate period (UNCRC).<sup>128</sup> Furthermore, children deprived of "liberty must be separated from adults and treated with humanity and in a manner that considers their age (UNCRC)<sup>129</sup>. Although Bangladesh has three specialised institutions renamed as Child Development Centers for the detention of child offenders, they lack adequate staff and resources for effective rehabilitation and reintegration, which puts the children at serious risk of abuse, torture, and ill-treatment if sent to ordinary prisons, where they are imprisoned with adults (Committee on the Rights of the Child). This situation hampers the provision of age-appropriate protections to these children. Article 37 of the UNCRC provides that a child's arrest, detention, or imprisonment should be used only as a measure of last resort and for the shortest appropriate period<sup>130</sup>. However, in Bangladesh, many children are sent to ordinary prisons where they are imprisoned with adults, despite the existence of three specialised institutions for the detention of child offenders."

### **Leading Cases and Judicial Interventions**

One significant case is the Public Interest Litigation (PIL) filed in 2009 by "**the Bangladesh Legal Aid and Services Trust (BLAST) and the Ain o Salish Kendra (ASK)** in the High Court Division of the Supreme Court of Bangladesh. The PIL challenged the constitutionality of the Juvenile Justice Act of 2000, which was the precursor to the CA-13." The court ultimately declared "several sections of the Children Act 1974 is unconstitutional, including the provision allowing the detention of children in police custody for up to ten days without judicial oversight. This decision paved the way for the development of the CA-13 and provided an important precedent for the protection of the rights of children in conflict with the law."

Another critical case is the decision in the case of "**Ain o Salish Kendra v. Government of Bangladesh and Others**, which was decided by the High Court Division of the Supreme Court of Bangladesh in 2014." The case challenged "the legality of the detention of children in correctional institutions that were not explicitly designed for children." The court ultimately declared that the detention of children in such facilities was illegal and ordered the government to transfer all children held in adult correctional facilities to juvenile rehabilitation centres.

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<sup>127</sup> Convention on the Rights of the Child | UNICEF, *supra* note 15.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

In addition to these cases, several other judicial decisions in Bangladesh related to “children's rights conflict with the law. These decisions have emphasised the importance of ensuring that children are treated following international standards and have provided guidance on interpreting and implementing the CA-13.”<sup>131</sup>

**In the case of “Legal Aid and Services Trust (BLAST) and the Ain o Salish Kendra (ASK) in the High Court Division of the Supreme Court of Bangladesh.”** The PIL “challenged the constitutionality of the Children Act of 1974, which was the precursor to the CA-13. The court ultimately declared several sections of the CA-13 as unconstitutional, including the provision allowing the detention of children in police custody for up to ten days without judicial oversight. This decision paved the way for the development of the CA-13 and provided an important precedent for the protection of the rights of children in conflict with the law.”

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Overall, these “judicial decisions highlight the critical role that the courts play in protecting the rights of children in Bangladesh. They demonstrate the importance of upholding the principles of due process and fair trial, as well as the need for the effective implementation of laws and policies aimed at promoting the rights of children in conflict with the law.” Several critical “judicial decisions in Bangladesh relate to the CA-13 and children's rights in conflict with the law.

In addition to these cases, several other judicial decisions in Bangladesh related to children's rights conflict with the law. These decisions have emphasised the importance of ensuring that children are treated following international standards and have provided guidance on interpreting and implementing the CA-13.”

**“Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh, Writ Petition No. 3139 of 2004,”** High Court Division of the Supreme Court of Bangladesh. “this case concerned handcuffs and other restraints on children in police custody. The court declared that using

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<sup>131</sup> Government of the People’s Republic of Bangladesh, *supra* note 7.



restraints on children in such circumstances was illegal and ordered the government to take steps to prevent such practices.”

**“Ain o Salish Kendra v. Government of Bangladesh and Others, Writ Petition No. 916 of 2009**, High Court Division of the Supreme Court of Bangladesh. This case challenged the use of corporal punishment in schools and other institutions. The court declared that such practices were illegal and ordered the government to take steps to prevent corporal punishment of children.”

**“Secretary, Ministry of Women and Children Affairs v. Bangladesh Legal Aid and Services Trust (BLAST)**, Writ Petition No. 2976 of 2013, High Court Division of the Supreme Court of Bangladesh. This case concerned the appointment of officers to monitor the implementation of the CA-13. The court ordered the government to ensure the timely appointment of such officers and provide them with the necessary resources to carry out their duties.”

**“Bangladesh Environmental Lawyers Association v. Bangladesh and Others**, Writ Petition No.7643 of 2010, High Court Division of the Supreme Court of Bangladesh. While this case does not directly relate to children's rights, it is an important judicial decision in Bangladesh. The case challenged the construction of a coal-fired power plant that was expected to impact public health and the environment negatively. The court declared that the power plant construction was illegal and ordered the government to take steps to prevent its construction.”

**“Stakeholder analysis and mapping nexus with power and impact:**

‘Stakeholder Mapping’ has inherent constraints in addressing complex and interdependent relationships in stakeholder management.<sup>132</sup> Influence, attitude, power, interest, support, and legitimacy are used to map the stakeholder community.<sup>133</sup> Mapping aids decision-making: matrixes, grids, and maps map stakeholders. Influence, mindset, authority, interest, excitement, and legitimacy are employed, which requires gathering data on numerous stakeholders and stakeholder groups, including their interests, impact, position, interrelationships, and priorities.”

Because of their crucial role as decision-makers and influencers, the legal system is a part of every intervention strategy, thanks to their authority and interests. In this article, “we categorise

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<sup>132</sup> Mohan, V.R. and Paila, A.R., 2013. Stakeholder Management in Infrastructure/Construction Projects: The Role Of Stakeholder Mapping And Social Network Analysis (SNA). *Aweshkar Research Journal*, 15(1).

<sup>133</sup> Marie Slabá, *Stakeholder profile and stakeholder mapping of SMEs*, 1 *LITTERA SCR.* 124 (2016).

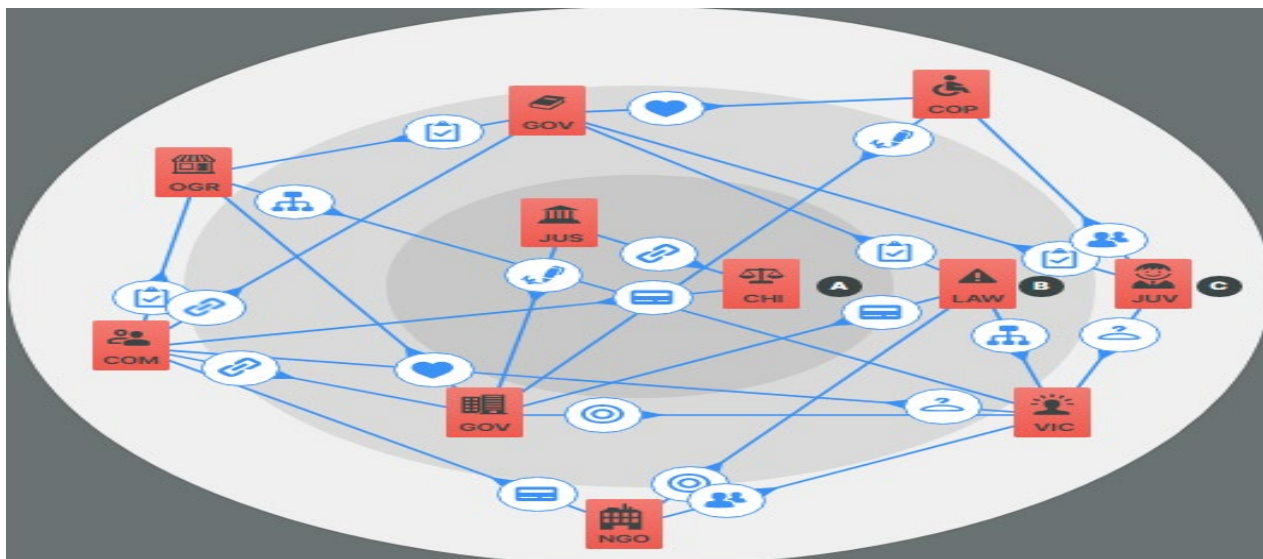
the many stakeholders involved in the juvenile justice system in Bangladesh based on their relative strength and influence inside the system.”

P o w e r	<b>LH</b>	<b>HH</b>
	<ul style="list-style-type: none"> <li>● Public institutions.</li> <li>● Press and media.</li> <li>● Marginal class of the community.</li> <li>● Local determining (<i>Shalis-Ponchayet</i>) groups.</li> </ul>	<ul style="list-style-type: none"> <li>● Law enforcement agencies.</li> <li>● Local law enforcement agencies.</li> <li>● Resident political patrons.</li> <li>● Child Courts</li> <li>● Religious clergyman and <i>IMAM</i>.</li> </ul>
Hi gh	<b>LL</b>	<b>LH</b>
	<ul style="list-style-type: none"> <li>● Dept. of Social Affairs</li> <li>● Lawyer and JJS actioners</li> <li>● Criminal and gangs.</li> <li>● Research community.</li> </ul>	<ul style="list-style-type: none"> <li>● Victim and manipulated clusters.</li> <li>● Secondary investigators.</li> <li>● INGO and NGO.</li> </ul>
	<b>Interest</b>	<b>Low</b>

**Table: 01. Power and Interest-based stakeholders.**

It is necessary to “take a multidisciplinary approach on the part of all the interested parties in the juvenile justice system because the procedure of children’s restorative justice” and their reunification into society is strategic that cannot be accomplished by a single organisation. When taking a multidisciplinary method, the two most important approaches to keep in mind are “coordination” and “collaboration.” NGOs and other forms of civil society organisation are

essential to the Judicial System. There, relational harmony and dependency are vis-versa. The following Model illustrates the



**Figure 02. Authority and coordination model among stakeholders**

Reforming the “Juvenile Justice System provides a strategy for implementing the identified methods and policies to change the juvenile justice system.” Prevent juvenile offenders, particularly juvenile offenders, from being sent outside their homes by putting procedures, policies, and programs into place. It was stated that stakeholders partnered with juvenile justice agencies more often than with community groups, kids, and families. Stakeholders regularly ranked family involvement as a top concern, whereas youth involvement was seldom addressed. Successful cooperation works together with executing more significant reform initiatives. Therefore sites with greater collaboration tend to have better implementation. Building inclusive coalitions to tackle juvenile justice reform is a laudable objective that may help move the cause forward.

**Recommendations:**

1. Strengthening Legal Framework: Bangladesh should prioritise the comprehensive reform of its juvenile justice system by amending and updating relevant laws, including the CA-13. The legal framework should “explicitly incorporate international standards and principles for the protection and rights of children in conflict with the law.”
2. Enhancing Implementation and Capacity Building: Appropriate resources should be allocated to ensure juvenile justice laws and policies are effectively implemented. This includes providing “training programs for judges, lawyers, law enforcement officials,

and social workers involved in the juvenile justice system. Capacity-building efforts should promote a child-centred approach, ensure due process, and implement diversionary measures.”

3. **Establishing Specialized Juvenile Courts:** Dedicated juvenile courts should be established in every district of Bangladesh to handle cases involving children in conflict with the law. These courts should have specialised judges with child rights and juvenile justice expertise. The courts should prioritise alternatives to detention, such as diversion programs and rehabilitation while ensuring fair and impartial proceedings.
4. **Strengthening Rehabilitation and Reintegration Programs:** Bangladesh should invest in comprehensive rehabilitation and reintegration programs for children in conflict with the law. These programs should address the specific needs of juvenile offenders, including education, skills training, and psychosocial support. Collaboration with relevant stakeholders, including NGOs and community-based organisations, ensures successful reintegration.
5. **Improving Conditions of Detention Centers:** Efforts should be made to improve the conditions of Bangladesh's detention centres and Child Development Centers. Adequate resources, trained staff, and monitoring mechanisms should be in place to protect children from abuse, torture, and other forms of mistreatment. Rehabilitation-focused services should be prioritised over punitive measures.
6. **Empowerment through Education and Skills Training:** Prioritise access to quality education and vocational skills training for children in conflict with the law. We can equip them with the tools they need to successfully reintegrate into society by providing opportunities to develop their knowledge and skills.
7. **Community-Based Rehabilitation Programs:** Establish community-based rehabilitation programs involving local communities, families, and relevant stakeholders. These programs can provide a supportive environment for juvenile offenders, offering counselling, mentorship, and community service opportunities to facilitate their reintegration.
8. **Restorative Justice Practices:** Explore the implementation of restorative justice practices that focus on repairing the harm caused by juvenile offenders while also addressing the underlying issues that led to their involvement in criminal activities.

Restorative justice approaches can promote accountability, empathy, and reconciliation, fostering a more inclusive and harmonious society.

9. **Multi-Agency Collaboration:** Strengthen “collaboration among government agencies, non-governmental organisations, and community-based organisations to ensure a comprehensive and coordinated approach to juvenile justice.” By working together, these stakeholders can pool their resources, expertise, and knowledge to provide holistic support for children in conflict with the law.
10. **“Awareness and Sensitization Programs”:** Conduct awareness and sensitisation programs targeting key stakeholders, including law enforcement officials, judicial personnel, social workers, and the general public. These programs can help dispel misconceptions, reduce stigma, and increase understanding of juvenile offenders' needs and rights.
11. **“Monitoring and Evaluation:** Establish robust monitoring and evaluation mechanisms to assess the effectiveness of juvenile justice policies and programs.” Regular assessments can identify gaps, measure progress, and inform evidence-based decision-making, leading to continuous improvements in safeguarding juvenile rights.

**Conclusion:**

Bangladesh’s journey towards justice for CCL requires concerted efforts and innovative approaches. By implementing these attractive recommendations, we can create a more inclusive and supportive environment for juvenile offenders, offering them opportunities for rehabilitation, education, and skills development. We can empower these young individuals to reintegrate into society as responsible citizens through collaboration, community involvement, and promoting restorative justice practices.

It is crucial for “all stakeholders, including the government, civil society organisations, and the international community, to prioritise the protection and well-being of juvenile offenders. Together, we can ensure that no child is left behind and that every child in conflict with the law is given a chance for a brighter future filled with opportunities and positive transformation.” Bangladesh has made significant strides in safeguarding CCL, as reflected in the CA-13 and other related instruments. However, challenges remain in translating these legal provisions into practical implementation. This evaluation highlights the need for ongoing efforts to strengthen the JJS, enhance capacity building, establish specialised courts, improve rehabilitation programs, and ensure proper detention centre conditions.

By adopting the recommended measures, Bangladesh can advance its journey towards justice for CCL. The government, civil society organisations, and international partners must collaborate to prioritise these vulnerable juveniles' rights and well-being. Protecting and empowering children in conflict with the law are integral to building a just and inclusive society where every child has the opportunity for rehabilitation, reintegration, and a brighter future.

The UNCRC protects children's rights worldwide, and specialist court systems like the JJS may help safeguard children in dispute with the law globally, although execution varies by country. Some nations have protected children's rights well, while others have struggled. In Bangladesh, these laws, regulations, and operational activities must be evaluated to safeguard children, namely CCL. Notwithstanding these efforts, Bangladesh still needs a separate system for children confronting the law. A comprehensive juvenile justice system overhaul to defend children's rights and eradicate abuse. A new, innovative, efficient juvenile justice system is required to protect children and reduce lawbreaking. On the other hand, judicial, legal, and safeguarding processes should be examined and improved to ensure children's rights to fair trials and legal representation. Supervision and restorative justice may replace jail, and Judicial professionals, especially rehabilitation and reintegration youth, need more formal training.