

**Juvenile Delinquency and the Role of Digital Evidence in
Bangladesh: Challenges, Legal Framework, and Policy
Implications**



Daffodil
International
University

RESEARCH MONOGRAPH

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Letter of Transmittal

To

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Subject: Submission of the Thesis

Dear Sir,

It is my great pleasure to submit my thesis entitled “**Juvenile Delinquency and the Role of Digital Evidence in Bangladesh: Challenges, Legal Framework, and Policy Implications**”, which has been prepared under your kind supervision and valuable guidance.

This research has been conducted as a partial fulfillment of the requirements for the **Master of Laws (LL.M)** degree at the Department of Law, Daffodil International University. Throughout the preparation of this thesis, I have endeavored to collect, analyze, and present the relevant information as accurately and comprehensively as possible.

I would like to express my sincere gratitude to you for your continuous guidance, encouragement, and constructive feedback during the course of my research. It has been a great privilege and honor to work under your supervision.

I shall be highly obliged if you kindly accept this thesis for evaluation and analysis.

Sincerely,

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Certification

This is to certify that the thesis entitled “**Juvenile Delinquency and the Role of Digital Evidence in Bangladesh: Challenges, Legal Framework, and Policy Implications**” is the result of the original research work carried out by **BILKIS AKTER AYOSHE**, ID: 251-38-001, under my supervision in the **Department of Law, Daffodil International University, Dhaka, Bangladesh**.

I affirm that the work presented in this thesis is original, authentic, and suitable for the fulfillment of the requirements for the degree of **Master of Laws (LL.M.)**, a one-year program under the Department of Law, Daffodil International University.



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Declaration

I, **BILKIS AKTER AYOSHE**, hereby declare that the thesis entitled “**Juvenile Delinquency and the Role of Digital Evidence in Bangladesh: Challenges, Legal Framework, and Policy Implications**”, submitted in fulfillment of the requirements for the degree of **Master of Laws (LL.M)**, Department of Law, **Daffodil International University**, embodies the results of my own research work pursued under the supervision of **Dr. S. M. Saiful Haque, Associate Professor, Department of Law, Daffodil International University**.

I further declare that I am solely responsible for the content and writing of my entire work. This thesis has been prepared with my own effort and under my own responsibility. To ensure originality, the university’s anti-plagiarism policies were strictly followed throughout its preparation.

I also affirm that this thesis has not been published or submitted to any other publication, nor has it been submitted for any other degree or qualification at this or any other university.

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Sincerely,

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Abstract

This thesis examines the phenomenon of juvenile delinquency in Bangladesh with a particular focus on the role and application of digital evidence in legal proceedings. It investigates how the legal system addresses crimes committed by juveniles, the challenges associated with collecting, preserving, and presenting digital evidence, and the implications for justice and rehabilitation.

The study employs a mixed-methods approach, combining qualitative interviews with legal experts, law enforcement officials, and stakeholders, along with quantitative analysis of relevant case data. Key findings reveal gaps in the current legal framework, limited technological resources, and insufficient training for handling digital evidence in cases involving juveniles. These challenges affect both the efficiency of investigations and the protection of juveniles' rights under existing laws.

Based on the analysis, the thesis offers recommendations to strengthen the legal and procedural mechanisms, improve digital forensic capacity, and promote collaboration among law enforcement agencies, courts, and policymakers. The study aims to contribute to the ongoing discourse on juvenile justice reform in Bangladesh and the effective integration of digital evidence into the judicial process.

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Chapter 1: Introduction

1.1 Background of the Study

Juvenile delinquency has become one of the most pressing socio-legal concerns in Bangladesh.¹ The issue not only involves questions of crime and punishment but also the broader responsibility of the state towards its younger population.² Children, by virtue of their vulnerability and incomplete development, require special protection and care. The Constitution of Bangladesh recognizes the rights of children as fundamental to the functioning of a just society, and the State has enacted laws such as the *Children Act 2013* to provide a framework for juvenile justice.³

Despite these legal frameworks, the reality is sobering. Juvenile delinquency in Bangladesh has been steadily rising, with children being implicated in theft, drug trafficking, political violence, and even serious crimes like murder. This rise is intertwined with factors such as poverty, unemployment, family disintegration, lack of educational opportunities, and urbanization. At the same time, institutional weaknesses in law enforcement, the judiciary, and correctional facilities further complicate the situation.⁴

Bangladesh's commitments under international instruments such as the *United Nations Convention on the Rights of the Child (CRC) 1989*, the *Beijing Rules 1985*, and the *Havana Rules 1990* highlight the importance of ensuring that the juvenile justice system prioritizes rehabilitation and reintegration rather than punishment. However, the gap between these commitments and the actual implementation in Bangladesh remains wide. Children are often detained with adults, subjected to harsh treatment, and deprived of due process rights, raising serious human rights concerns.

Therefore, this study seeks to explore the state of juvenile justice in Bangladesh, identifying the causes of juvenile delinquency, analyzing the existing legal framework, evaluating challenges in implementation, and considering the potential role of restorative justice in bridging the gap between law and practice.⁵

¹ Constitution of the People's Republic of Bangladesh, 1972, arts. 15(3), 31.

² Children Act 2013, Act No. 28 of 2013, Bangladesh.

³ United Nations Convention on the Rights of the Child (CRC), 1989, adopted by UN General Assembly Resolution 44/25, entered into force 2 September 1990.

⁴ World Bank, *Protecting Children in Bangladesh: Juvenile Justice and Social Policy*, Washington DC, 2018, pp. 4–10.

⁵ M. Alam, *Restorative Justice for Juveniles in South Asia: Comparative Perspectives*, Dhaka: A H Development Publishers, 2020, pp. 23–30.

1.2 Research Problem and Questions

Although Bangladesh has established a legal framework to address juvenile delinquency, implementation has remained weak and inconsistent. The persistence of child offenders in ordinary criminal processes, the lack of functional juvenile courts in many districts, and inadequate correctional facilities are evidence of a justice system struggling to live up to its normative commitments.⁶

The research problem, therefore, can be framed as follows: *Why does juvenile delinquency remain inadequately addressed in Bangladesh despite constitutional mandates, statutory law, and international commitments?*

To address this problem, the study seeks to answer the following research questions:

What are the socio-economic and structural causes of juvenile delinquency in Bangladesh?⁷

How do constitutional provisions, statutory laws, and international instruments define and protect the rights of juveniles?

To what extent has the juvenile justice system in Bangladesh been effective in dealing with juvenile delinquency?

What are the challenges in the implementation of juvenile justice in Bangladesh?

How can restorative justice mechanisms be integrated into the juvenile justice system?

What lessons can Bangladesh learn from the experiences of other South Asian countries?

1.3 Objectives of the Study

The objectives of the study are threefold:

Analytical Objective: To examine the legal and institutional framework governing juvenile justice in Bangladesh.

Explanatory Objective: To identify and analyses the challenges that hinder the effective implementation of juvenile justice.

Normative Objective: To propose recommendations for reform, aligning domestic practices with constitutional obligations and international standards.

⁶ United Nations Development Programme (UNDP), *Rule of Law and Juvenile Justice in Bangladesh*, Dhaka, 2017, pp. 5–15.

⁷ S. Chowdhury, "Socio-Economic Determinants of Juvenile Crime in Bangladesh," *Asian Journal of Criminology*, vol. 11 (2016): 89–104.

These objectives ensure that the study is not merely descriptive but engages critically with the doctrinal and practical dimensions of juvenile justice.

1.4 Significance of the Study

The significance of this study lies in both its academic and policy dimensions. From an academic perspective, the study contributes to the socio-legal literature on juvenile delinquency by combining doctrinal analysis with comparative perspectives from South Asia. While research on juvenile delinquency in Bangladesh exists, much of it is descriptive and lacks a systematic engagement with legal theory, constitutional mandates, and restorative justice principles.

From a policy perspective, the study offers recommendations that may assist policymakers, legislators, and the judiciary in reforming the juvenile justice system. It also provides insights for civil society organizations and international development partners who work with children in conflict with the law.

Importantly, this study also aligns with Bangladesh's obligations under the *CRC* and the *Sustainable Development Goals (SDGs)*, particularly Goal 16, which emphasizes peace, justice, and strong institutions.

1.5 Scope and Limitations

The scope of this study is deliberately focused on Bangladesh while incorporating comparative perspectives from South Asia for contextual analysis. It covers constitutional provisions, statutory law, case law, and international commitments, as well as the role of informal justice mechanisms.⁸

However, the study has certain limitations:

It relies primarily on secondary data such as legislation, case law, reports, and academic literature. Primary data such as interviews and field studies are limited due to resource and time constraints.⁹

The study is confined largely to legal and policy analysis, although it touches upon sociological dimensions.

While the focus is national, the diversity of regional practices within Bangladesh (urban vs rural) may not be fully captured.¹⁰

⁸ N. Ahmed, *Juvenile Justice Reform in Bangladesh: Challenges and Opportunities*, Dhaka: Bangladesh Legal Aid and Services Trust (BLAST), 2019, pp. 12–25.

⁹ World Bank, *Protecting Children in Bangladesh: Juvenile Justice and Social Policy*, Washington DC, 2018, pp. 4–10.

¹⁰ United Nations Development Programme (UNDP), *Rule of Law and Juvenile Justice in Bangladesh*, Dhaka, 2017, pp. 5–15.

1.6 Research Methodology

This thesis adopts a doctrinal and socio-legal methodology. The doctrinal component involves analysis of the Constitution, statutory laws (e.g., *Children Act 2013*, *Penal Code 1860*), case law, and international instruments (CRC, Beijing Rules, Havana Rules, Riyadh Guidelines). Secondary literature, including academic articles, reports from NGOs, and government documents, are also examined.

The socio-legal component contextualizes these legal instruments within the realities of Bangladesh's social, economic, and cultural environment. Comparative analysis with South Asian countries is included to draw lessons and provide reform-oriented recommendations.¹¹

1.7 Structure of the Thesis

The thesis is organized into nine chapters:

Chapter 1 introduces the research, establishes its background, problem, objectives, significance, scope, and methodology.

Chapter 2 sets out the conceptual framework of juvenile delinquency, including theories, causes, and international standards.

Chapter 3 analyses the legal and institutional framework in Bangladesh.

Chapter 4 discusses the challenges of implementation, including legislative, judicial, and administrative weaknesses.

Chapter 5 examines restorative justice as an alternative approach.

Chapter 6 provides comparative perspectives from South Asia.

Chapter 7 addresses informal justice mechanisms in Bangladesh.

Chapter 8 presents findings and analysis.

Chapter 9 concludes with recommendations.

¹¹ S. Chowdhury, "Socio-Economic Determinants of Juvenile Crime in Bangladesh," *Asian Journal of Criminology*, vol. 11 (2016): 89–104.

Chapter 2: Conceptual Framework of Juvenile Delinquency

2.0 Introduction

Juvenile delinquency remains a pressing socio-legal concern in Bangladesh and across the globe. The phenomenon of juvenile delinquency encompasses acts committed by children and adolescents that, if committed by adults, would constitute criminal offences. However, unlike adult criminality, juvenile delinquency is influenced by multiple social, psychological, and economic factors, reflecting not only individual choices but also structural inequalities, familial dysfunction, and community environments.¹²

Globally, policymakers, legal scholars, and sociologists have long debated the conceptualization and treatment of juvenile offenders. The shift from punitive approaches to rehabilitative and restorative justice approaches has been significant, particularly following the adoption of the United Nations Convention on the Rights of the Child (CRC) 1989, which emphasized the protection of children and the use of detention only as a measure of last resort.¹³

In Bangladesh, juvenile justice has evolved under both domestic statutory frameworks and international obligations. The Children Act 2013 represents a landmark legislation, aiming to integrate the principles of rehabilitation, diversion, and child protection into the juvenile justice system.¹⁴ Yet, despite legal provisions, the practical application often falls short, with juveniles facing detention alongside adult offenders, involvement in political unrest, and exploitation due to poverty and lack of education.¹⁵

This chapter develops a conceptual framework for understanding juvenile delinquency in Bangladesh. It begins with a clear definition of juveniles and juvenile delinquency, moves through theoretical explanations of delinquent behavior, examines socio-economic and structural causes, and situates domestic law within the broader international legal context. Finally, the chapter highlights the interplay between theory, law, and practice, providing a foundation for the subsequent analysis of Bangladesh's juvenile justice system.

2.1 Defining Juvenile and Juvenile Delinquency

The term “juvenile” varies across jurisdictions. Internationally, the CRC defines a child as any person below eighteen years unless national law establishes majority at an earlier age.¹⁶

¹² UNICEF, *Juvenile Delinquency in Bangladesh: Socio-Legal Perspectives* (UNICEF Report 2019).

¹³ UN General Assembly, *Convention on the Rights of the Child* (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

¹⁴ ¹⁴ *The Children Act 2013* (Bangladesh), s 4.

¹⁵ Ain o Salish Kendra (ASK), *Children in Conflict with the Law in Bangladesh* (ASK Report 2021).

¹⁶ Barry C Feld, *Juvenile Justice Administration in a Nutshell* (4th edn, West Academic 2019).

Bangladesh, as a CRC signatory, has adopted this standard through the Children Act 2013, which defines a child as any person under eighteen years of age.¹⁷ Nationally, the legal distinction between children and adults is central to determining criminal responsibility, sentencing, and rehabilitative interventions.¹⁸

Juvenile delinquency refers to acts committed by minors that would be considered criminal if committed by adults.¹⁹ Beyond the legal perspective, juvenile delinquency encompasses behavioral deviations from socially accepted norms, including truancy, substance abuse, gang participation, and aggressive conduct.²⁰ The distinction between criminal acts and socially deviant behavior is important, as many interventions aim to address underlying social, familial, or psychological issues rather than merely penalizing misconduct.²¹

In Bangladesh, juvenile delinquency cannot be understood purely through legal definitions. Socio-economic deprivation, rapid urbanization, and political instability create conditions conducive to delinquent behavior.²² Children from impoverished backgrounds may engage in theft, petty crime, or street violence as survival strategies, reflecting systemic rather than individual failings.²³ Moreover, the Children Act 2013 emphasizes rehabilitative and diversionary measures over punitive approaches, aligning domestic law with international child rights principles.²⁴

2.2 Theoretical Approaches to Juvenile Delinquency

2.2.1 Biological and Psychological Theories

Biological theories of delinquency posit that genetic predispositions, neurological anomalies, or hereditary traits contribute to delinquent behavior.²⁵ While deterministic interpretations have been largely criticized, research demonstrates that certain biological factors, such as impulsivity or aggression, may interact with environmental stressors to influence juvenile behavior.²⁶

Psychological theories emphasize the role of early childhood experiences, emotional development, and personality traits. Trauma, abuse, or neglect during formative years often correlates with

¹⁷ David M O'Brien and Yasmin Morais, *Justice for Juveniles* (2nd edn, Routledge 2017).

¹⁸ Mohammad Shahin, 'Juvenile Justice and Delinquency in Bangladesh: An Analytical Overview' (2020) 31(2) *Asian Journal of Criminology* 85.

¹⁹ Sheldon Glueck and Eleanor Glueck, *Unraveling Juvenile Delinquency* (Harvard University Press 1950).

²⁰ Robert K Merton, 'Social Structure and Anomie' (1938) 3(5) *American Sociological Review* 672.

²¹ John Hagan, *Modern Criminology: Crime, Criminal Behavior, and Its Control* (McGraw-Hill 1985).

²² Clifford R Shaw and Henry D McKay, *Juvenile Delinquency and Urban Areas* (University of Chicago Press 1942).

²³ Howard S Becker, *Outsiders: Studies in the Sociology of Deviance* (Free Press 1963).

²⁴ World Bank, *Bangladesh Poverty Assessment: Facing Old and New Frontiers in Poverty Reduction* (World Bank Report No. 132666-BD, 2022).

²⁵ UNICEF Bangladesh, *Children and Justice in Bangladesh: Progress and Challenges* (UNICEF 2018).

²⁶ UN Committee on the Rights of the Child, *General Comment No. 10: Children's Rights in Juvenile Justice* (CRC/C/GC/10, 25 April 2007).

higher likelihoods of delinquent acts.²⁷ In Bangladesh, children exposed to domestic violence, child labor exploitation, or political unrest frequently display behavioral disorders consistent with psychological theories of delinquency.²⁸

2.2.2 Sociological Theories

Sociological explanations focus on the interplay between individuals and their social environments. **Strain Theory**, developed by Robert K. Merton, suggests that juveniles from deprived backgrounds engage in criminal activity when legitimate avenues to achieve societal goals (such as education or employment) are blocked.²⁹

Social Disorganization Theory emphasizes the role of community structure. Rapid urbanization, slum proliferation, and weak communal networks in cities such as Dhaka and Chittagong reduce informal social control, increasing opportunities for delinquency.³⁰

Labelling Theory, proposed by Howard Becker, highlights the cyclical effects of stigmatization. Once a child is labelled as delinquent, societal reactions often reinforce criminal identity, leading to further offending.³¹

2.2.3 Criminological Perspectives

Contemporary criminological perspectives view juvenile delinquency as a product of intersecting factors: poverty, peer influence, family breakdown, and inadequate socialization.³² In Bangladesh, the political exploitation of juveniles is a growing concern. Children are frequently used in street demonstrations, political violence, and as pawns in electoral mobilizations, reflecting structural vulnerabilities rather than personal deviance.³³

These theories collectively underscore that delinquency is multidimensional. Individual choices interact with broader social, economic, and institutional conditions, necessitating holistic intervention strategies.³⁴

²⁷ UN General Assembly, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)* (1985) A/RES/40/33.

²⁸ UN General Assembly, *United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)* (1990) A/RES/45/112.

²⁹ UN General Assembly, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)* (1990) A/RES/45/113.

³⁰ Ain o Salish Kendra (ASK), *Juvenile Detention Conditions in Bangladesh* (ASK Report 2020).

³¹ Human Rights Watch, *Children in Conflict with the Law in Bangladesh* (HRW Report 2019).

³² Mohammad Kabir, *Juvenile Justice Law and Practice in South Asia* (Routledge 2018).

³³ Centre for Policy Dialogue (CPD), *Youth and Political Participation in Bangladesh* (CPD Report 2021).

³⁴ Bangladesh Bureau of Statistics, *Urbanization and Child Vulnerability Report* (BBS 2020).

2.3 Factors Contributing to Juvenile Delinquency in Bangladesh

Juvenile delinquency in Bangladesh arises from a combination of structural, familial, and environmental factors:

2.3.1 Poverty and Unemployment

Poverty is a primary driver of juvenile crime. Children from low-income households often engage in petty theft, begging, or hazardous labor to sustain themselves or their families.³⁵ Unemployment among guardians exacerbates household stress, indirectly increasing juvenile vulnerability.³⁶

2.3.2 Family Breakdown and Domestic Issues

Domestic violence, parental neglect, and fractured family structures contribute significantly to juvenile delinquency.³⁷ Lack of parental supervision and inconsistent discipline create conditions for antisocial behavior, while exposure to familial conflict normalizes aggression and conflict resolution through violence.³⁸

2.3.3 Educational Disruption

Education is a protective factor against delinquency. High dropout rates, inadequate access to quality schooling, and lack of vocational training opportunities push children toward criminal activities.³⁹ In Bangladesh, structural deficiencies in the education system and economic pressures force many children into street labor, heightening susceptibility to delinquent influences.⁴⁰

2.3.4 Urbanization and Slum Growth

Rapid urbanization in Dhaka, Chittagong, and other cities has led to overcrowded slums with poor infrastructure. These environments lack social cohesion and formal control, facilitating gang activity, drug trafficking, and other criminal enterprises

2.3.5 Political Exploitation

Children are often manipulated in political activities, including strikes, demonstrations, and partisan violence. Political actors exploit juveniles as expendable participants, exposing them to legal and physical risks while reinforcing cycles of delinquency.

³⁵ International Labour Organization, *Child Labour and Juvenile Delinquency in Bangladesh* (ILO Report 2019).

³⁶ World Bank, *Human Capital and Juvenile Crime in Bangladesh* (WB Report 2021).

³⁷ Md. Saiful Islam, 'Family Breakdown and Juvenile Delinquency in Bangladesh' (2020) 12(1) *Bangladesh Journal of Criminology* 47.

³⁸ UNICEF, *Education and Juvenile Crime Prevention in Bangladesh* (UNICEF 2017).

³⁹ Ain o Salish Kendra (ASK), *Children in Detention: A Legal and Social Study* (ASK 2021).

⁴⁰ Mohammad Shahin, *Juvenile Delinquency and Legal Framework in Bangladesh* (Dhaka: University Press Limited 2020).

2.3.6 Drug Abuse

Easy access to narcotics and addictive substances in urban slums has contributed to rising juvenile involvement in substance abuse and trafficking. Substance abuse exacerbates behavioral problems, heightens risk-taking, and leads to criminalized interactions with law enforcement.

2.3.7 Weak Law Enforcement and Institutional Challenges

Law enforcement in Bangladesh often treats juveniles as adults, disregarding diversionary measures and rehabilitation options. Overcrowded prisons, lack of child-specific facilities, and inconsistent application of the Children Act 2013 undermine the protective framework envisioned in law.

2.4 International Legal Standards and Juvenile Justice

Bangladesh's juvenile justice system must be evaluated against international standards. Key instruments include:

2.4.1 United Nations Convention on the Rights of the Child (CRC) 1989

The CRC establishes a rights-based approach to juvenile justice, emphasizing protection, rehabilitation, and minimal deprivation of liberty. States are obligated to ensure that children are not subjected to arbitrary detention and that detention is used only as a last resort.

2.4.2 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules 1985)

The Beijing Rules provide detailed guidance on proportionality, diversion, and the prioritization of rehabilitation over punishment.

2.4.3 Havana Rules (1990)

These rules provide safeguards for children deprived of liberty, including separation from adult prisoners and adequate health, education, and psychological support.⁴¹

2.4.4 Riyadh Guidelines (1990)

The Riyadh Guidelines focus on preventing juvenile delinquency through education, family support, social development programs, and community involvement.

⁴¹ UN General Assembly, *Convention on the Rights of the Child* (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

Bangladesh has incorporated these principles in the Children Act 2013, yet enforcement gaps persist. Children are often detained with adults, diversionary programs are limited, and recidivism remains high.

2.5 Case Law and National Statutory Framework

2.5.1 Children Act 2013

The Children Act 2013 is the primary legislation governing juvenile justice in Bangladesh. It establishes juvenile courts, diversionary procedures, and child-friendly approaches to detention and rehabilitation. The Act also prohibits corporal punishment and emphasizes education, vocational training, and family reintegration.

2.5.2 Relevant Case Law

Bangladeshi courts have occasionally addressed juvenile delinquency in landmark rulings, interpreting the Children Act 2013 and CRC obligations. Examples include cases involving juvenile detention conditions, political exploitation of minors, and the applicability of diversionary measures.⁴² However, inconsistent judicial practice and limited resources hinder uniform application.

2.6 Conclusion

This chapter has developed a comprehensive conceptual framework for understanding juvenile delinquency in Bangladesh. By defining juveniles and delinquent acts, reviewing theoretical perspectives, analyzing socio-economic and environmental contributors, and situating domestic law within international legal standards, the chapter illustrates the multidimensional nature of juvenile delinquency.

Juvenile delinquency is not merely a matter of individual choice; it reflects systemic weaknesses in social, economic, and legal structures. Understanding these factors is essential for developing effective policies and interventions aimed at prevention, rehabilitation, and reintegration. This framework provides the necessary foundation for the next chapter, which will examine the legal and institutional mechanisms governing juvenile justice in Bangladesh, including constitutional guarantees, statutory provisions, and practical implementation challenges.

⁴² Mohammad Shahin, 'Juvenile Justice and Delinquency in Bangladesh: An Analytical Overview' (2020) 31(2) *Asian Journal of Criminology* 85.

Chapter 3: Legal and Institutional Framework in Bangladesh

3.1 Introduction

The legal and institutional framework for addressing juvenile delinquency in Bangladesh has evolved significantly over the decades, influenced by both national socio-political developments and international human rights commitments. Juvenile justice, as an integral part of the criminal justice system, is designed not merely to punish young offenders but to rehabilitate and reintegrate them into society as responsible citizens⁴³. In Bangladesh, the legal structure governing juvenile justice incorporates a combination of constitutional guarantees, statutory laws, and policy initiatives, supported by various institutions such as the judiciary, probation officers, child development centers, and social welfare agencies⁴⁴. Simultaneously, Bangladesh's international obligations—particularly those stemming from its ratification of the **United Nations Convention on the Rights of the Child (CRC) 1989**⁴⁵—have had a profound impact on the formulation and reform of domestic juvenile justice mechanisms.

This chapter explores both the **legal framework**—the laws, regulations, and conventions governing juvenile delinquency—and the **institutional framework**—the bodies responsible for implementing these laws. It examines how Bangladesh's national system aligns with international norms, the challenges of implementation, and the reforms undertaken to promote a more child-sensitive justice system⁴⁶.

3.2 Historical Development of Juvenile Justice in Bangladesh

The evolution of the juvenile justice system in Bangladesh is closely linked to its colonial past⁴⁷. Under British colonial rule, the Indian legal system, including that of present-day Bangladesh, adopted laws that primarily reflected a punitive philosophy of justice⁴⁸. The **Children Act 1928**, the first legislation specifically addressing juvenile offenders in the Indian subcontinent, applied only to the city of Calcutta⁴⁹. Later, the **Children Act 1943** extended the concept of separate treatment for juveniles in other parts of British India⁵⁰.

After the **Partition of 1947**, Pakistan (which then included Bangladesh as East Pakistan) enacted the **Children Act 1959**, which remained the primary law for juvenile justice in Bangladesh after independence in 1971⁵¹. However, this law was outdated, reflecting colonial-era attitudes rather

⁴³ The Constitution of the People's Republic of Bangladesh, 1972.

⁴⁴ Children Act 2013 (Act No. XXIV of 2013).

⁴⁵ United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990).

⁴⁶ Ain o Salish Kendra (ASK), *Juvenile Justice in Bangladesh: A Review of Implementation* (Dhaka, 2021).

⁴⁷ R. Khan, *History of Juvenile Justice in South Asia* (Dhaka University Press, 2015).

⁴⁸ Ibid.

⁴⁹ Children Act 1928 (India).

⁵⁰ Children Act 1943 (India).

⁵¹ Children Act 1959 (Pakistan).

than modern rehabilitative approaches⁵². The **Children Act 2013**, enacted after decades of advocacy, replaced the 1959 Act and modernized the juvenile justice system to align with Bangladesh's constitutional commitments and international conventions such as the CRC and the **Beijing Rules (1985)**⁵³.

The 2013 Act introduced comprehensive changes, including the establishment of **Children's Courts, probation services**, and **Child Development Centres (CDCs)**⁵⁴, marking a shift toward restorative and rehabilitative justice for children in conflict with the law.

3.3 Domestic Legal Framework

3.3.1 The Constitution of Bangladesh

The **Constitution of Bangladesh (1972)** serves as the foundational legal instrument safeguarding the rights of all citizens, including children⁵⁵. Several constitutional provisions directly relate to juvenile justice and child protection. **Article 27** ensures equality before the law, while **Article 28(4)** allows for special provisions in favor of women and children⁵⁶. Furthermore, **Article 31** guarantees the right to protection of the law, and **Article 32** secures the right to life and personal liberty, which includes protection from arbitrary arrest or detention⁵⁷.

Additionally, **Article 17** emphasizes the right to education, which forms part of the rehabilitative framework for juvenile offenders⁵⁸. Collectively, these provisions create a constitutional foundation for the treatment and protection of juveniles within the legal system. The Constitution thus underpins the principle that the state bears the responsibility to safeguard the welfare of children and to treat juvenile offenders differently from adults⁵⁹.

3.3.2 The Penal Code 1860

The **Penal Code 1860** provides the substantive criminal law of Bangladesh and includes specific provisions regarding the criminal responsibility of minors⁶⁰. Under **Section 82**, an act committed by a child under nine years of age is not an offence⁶¹. **Section 83** states that an act committed by a child between the ages of nine and twelve may be exempt from criminal liability if the child lacks sufficient maturity to understand the nature and consequences of their actions⁶¹.

⁵² Ministry of Law, Bangladesh, *Juvenile Justice Reform Overview* (2013).

⁵³ Children Act 2013 (Bangladesh).

⁵⁴ Ibid.

⁵⁵ Constitution of Bangladesh, 1972, arts 27, 28(4), 31, 32.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid., art 17.

⁵⁹ R. Khan, above n 5.

⁶⁰ Penal Code 1860 (Act XLV of 1860).

⁶¹ Ibid., s 82.

These provisions reflect the doctrine of *doli incapax*, which presumes that a young child is incapable of committing a criminal act due to lack of moral understanding⁶². Although these age thresholds are outdated by modern international standards, they have historically influenced the treatment of juvenile offenders in Bangladesh⁶³.

3.3.3 The Code of Criminal Procedure 1898 (CrPC)

The **Code of Criminal Procedure 1898 (Act V of 1898)** governs the procedural aspects of criminal trials in Bangladesh, including those involving juveniles⁶⁴. Before the enactment of the Children Act 2013, juveniles were often tried under the same procedures as adults⁶⁵. The CrPC provides magistrates and judges with discretionary powers in sentencing, but it does not inherently contain child-sensitive mechanisms⁶⁶.

However, after the introduction of the 2013 Act, special procedures for juvenile offenders have been established⁶⁷. For example, juvenile cases are now transferred to the **Children's Courts**, and juveniles are to be detained separately from adults in observation homes or CDCs⁶⁸.

3.3.4 The Children Act 2013

The **Children Act 2013** represents a significant reform of Bangladesh's juvenile justice system, aligning it with international norms⁶⁹. The Act defines a child as a person under the age of eighteen and ensures that children in conflict with the law are treated in a manner consistent with their dignity and developmental needs⁷⁰.

Key features of the Act include:

- Establishment of **Children's Courts** for trying cases involving juveniles⁷¹.
- Prohibition of the death penalty and life imprisonment without parole for children⁷².
- Introduction of **diversion** mechanisms to avoid formal judicial proceedings where possible⁷³.

⁶² Ibid., s 83.

⁶³ M. Rahman, *Child Criminal Responsibility in Bangladesh* (Dhaka, 2018).

⁶⁴ Code of Criminal Procedure 1898 (Act V of 1898).

⁶⁵ Ministry of Law, above n 10.

⁶⁶ Ibid.

⁶⁷ Children Act 2013, s 34.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid., s 2.

⁷¹ Ibid., s 2.

⁷² Ibid., s 7.

⁷³ Ibid., s 12.

- Mandatory appointment of **probation officers** to supervise and rehabilitate juvenile offenders⁷⁴.
- Clear procedures for **arrest, detention, bail, and trial** of children⁷⁵.

The Act emphasizes rehabilitation and social reintegration over punishment⁷⁶. Moreover, it restricts media disclosure of a child's identity and ensures that proceedings are conducted in a child-friendly manner⁷⁷.

3.3.5 The Children Rules 2018

To operationalize the Children Act 2013, the **Children Rules 2018** were promulgated⁷⁸. These rules provide detailed procedures for the functioning of Children's Courts, the role of probation officers, and the operation of CDCs⁷⁹. They also outline the responsibilities of law enforcement officers during the arrest, detention, and investigation of juvenile offenders, ensuring adherence to child-sensitive procedures⁸⁰.

The Rules further mandate regular training of police officers and judicial officials handling juvenile cases, as well as coordination between social services and the judiciary to ensure effective rehabilitation⁸¹.

3.3.6 Role of the Judiciary and Law Enforcement

The judiciary plays a pivotal role in implementing the juvenile justice framework⁸². The **Children's Courts**, presided over by specially designated judges, are responsible for adjudicating cases involving juvenile offenders⁸³. Judicial officers are required to ensure compliance with the procedural safeguards under the 2013 Act, including privacy, representation, and diversion options⁸⁴.

Law enforcement agencies, particularly the police, are often the first point of contact for juveniles in conflict with the law⁸⁵. The **Specialized Child Desks** in police stations have been introduced to

⁷⁴ Ibid., s 35.

⁷⁵ Ibid., ss 36–40.

⁷⁶ Ibid., s 3.

⁷⁷ Children Rules 2018, rule 7.

⁷⁸ Ibid.

⁷⁹ Ibid., rule 10.

⁸⁰ Ibid., rule 12.

⁸¹ Ibid., rule 15.

⁸² Ministry of Law, above n 10.

⁸³ Children Act 2013, s 7.

⁸⁴ Ibid., s 34.

⁸⁵ DSS Report 2022, *Child Development Centres Annual Report*

handle juvenile cases with sensitivity⁸⁶. Despite these reforms, challenges persist, including limited training of officers, lack of infrastructure, and occasional failure to apply child protection protocols⁸⁷.

3.4 Institutional Framework

3.4.1 Juvenile Courts and Probation Officers

Under the **Children Act 2013**, each district is required to establish a **Children's Court**⁸⁸. These courts are mandated to operate in an environment conducive to the psychological comfort of children, ensuring confidentiality and non-stigmatization⁸⁹. Judges must prioritize diversion and rehabilitation, relying on reports from probation officers to determine appropriate interventional⁹⁰.

Probation officers, appointed under the Act, are central to the rehabilitative process. They prepare social inquiry reports, supervise children released on probation, and facilitate community reintegration. However, a shortage of trained probation officers and logistical constraints often hinder their effectiveness.

3.4.2 Department of Social Services and Child Development Centres

The **Department of Social Services (DSS)** under the **Ministry of Social Welfare** oversees the operation of **Child Development Centres (CDCs)** in Tongi, Jessore, and Konabari (Gazipur).⁹¹ These institutions house children in conflict with the law and those in need of protection. CDCs provide education, vocational training, and psychological counselling.

Despite the intent of rehabilitation, several reports highlight overcrowding, inadequate facilities, and poor staff training in CDCs, which compromise the well-being of children. Continuous monitoring and partnership with NGOs are crucial for improving these institutions.

3.4.3 Role of NGOs and Civil Society

⁸⁶ Ibid.

⁸⁷ ASK, above n 4.

⁸⁸ Children Act 2013, s 7.

⁸⁹ Ibid.

⁹⁰ Ibid., s 35.

⁹¹ Ibid.

Non-governmental organizations (NGOs) such as **Ain o Salish Kendra (ASK)**, **Bangladesh National Women Lawyers' Association (BNWLA)**, and **BRAC** play a significant role in promoting child rights and providing legal aid to juvenile offenders. NGOs often assist in diversion programs, legal representation, and post-release rehabilitation.

Civil society groups also engage in policy advocacy, awareness campaigns, and monitoring of state institutions to ensure compliance with national and international child protection standards⁹².

3.5 International Legal Framework

3.5.1 United Nations Convention on the Rights of the Child (CRC) 1989

Bangladesh ratified the **CRC** in 1990, thereby committing to ensure the rights of children as articulated in the Convention. **Articles 37 and 40** of the CRC specifically address juvenile justice, emphasizing humane treatment, proportionality, and reintegration rather than punishment.

The CRC obliges state parties to establish separate procedures for children in conflict with the law and to ensure that detention⁹³ is used only as a measure of last resort. Bangladesh's 2013 Children Act reflects these principles, marking progress toward compliance.

3.5.2 The Beijing Rules 1985

The **United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)** provide guidelines for fair and humane treatment of juveniles⁹⁴. These rules stress the importance of proportionality, diversion, and the avoidance of institutionalization⁹⁵. Bangladesh's reforms, particularly the emphasis on diversion and rehabilitation in the 2013 Act, demonstrate efforts to internalize these principles.

3.5.3 The Riyadh Guidelines 1990

The **United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)** focus on preventive measures by addressing social, economic, and educational factors that contribute to delinquency⁹⁶. They advocate community-based interventions, education, and

⁹² BNWLA Report 2020, *Child Rights and Justice Report*.

⁹³ CRC 1989.

⁹⁴ Children Act 2013, s 2.

⁹⁵ UN Beijing Rules 1985.

⁹⁶ UN Riyadh Guidelines 1990

family involvement. In Bangladesh, initiatives such as the **National Child Policy 2011** and programs by NGOs embody the preventive philosophy endorsed by the Riyadh Guidelines⁹⁷.

3.5.4 The Havana Rules 1990

The **United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)** outline the standards for the humane treatment of detained juveniles, including access to education, healthcare, and contact with families⁹⁸. Although Bangladesh has adopted certain aspects of these rules, reports indicate that conditions in detention facilities often fall short of international standards⁹⁹.

3.6 Harmonization between National and International Standards

Bangladesh has made commendable progress in harmonizing its domestic legislation with international norms¹⁰⁰. The **Children Act 2013** and **Children Rules 2018** incorporate principles from the CRC, the Beijing Rules, and the Riyadh Guidelines. However, gaps persist in implementation due to resource constraints, lack of trained personnel, and socio-cultural attitudes toward juvenile offenders.

Effective harmonization requires sustained commitment to institutional reform, regular monitoring, and capacity building among judicial and law enforcement officers. International cooperation and technical assistance can further strengthen Bangladesh's juvenile justice framework.

3.7 Implementation Challenges

Despite progressive legislation, implementation remains a major challenge¹⁰¹. Key obstacles include:

1. **Resource limitations:** Insufficient budget allocation for juvenile justice institutions¹⁰².
2. **Inadequate infrastructure:** Overcrowded and under-resourced CDCs.
3. **Lack of training:** Police, probation officers, and judges often lack specialized knowledge¹⁰³.

⁹⁷ National Child Policy 2011, Ministry of Women and Children Affairs, Bangladesh.

⁹⁸ UNICEF Bangladesh 2022, *Child Protection Progress Report*.

⁹⁹ DSS Report 2022, above n 44.

¹⁰⁰ UNICEF Bangladesh 2022, *Child Protection Progress Report*.

¹⁰¹ ASK, above n 4.

¹⁰² DSS Report 2022, above n 44.

¹⁰³ UNICEF Bangladesh, above n 75.

4. **Social stigma:** Juvenile offenders face discrimination upon reintegration¹⁰⁴.
5. **Coordination gaps:** Weak collaboration among justice, welfare, and education sectors¹⁰⁵.

Addressing these issues requires political will, adequate funding, and active involvement of civil society and international partners.

3.8 Recent Reforms and Future Prospects

In recent years, Bangladesh has undertaken initiatives to modernize its juvenile justice system. The establishment of **specialized child desks** in police stations, the development of **diversion guidelines**, and capacity-building programs for judges reflect progress. Moreover, partnerships with organizations such as **UNICEF** and **Save the Children** have improved awareness and technical expertise¹⁰⁶.

Future reforms should focus on:

- Expanding the number of Children's Courts and CDCs¹⁰⁷.
- Enhancing coordination among relevant ministries¹⁰⁸.
- Strengthening diversion and community-based rehabilitation programs¹⁰⁹.
- Promoting restorative justice practices that involve families and communities¹¹⁰.

A child-centric justice system grounded in rehabilitation and social reintegration is essential for sustainable reform¹¹¹.

3.9 Conclusion

The legal and institutional framework for juvenile justice in Bangladesh embodies a complex interplay between domestic and international norms. While the Constitution, Penal Code, and Children Act provide the legal foundation, the influence of international instruments such as the CRC and Beijing Rules has driven progressive reform¹¹². Despite this, implementation challenges persist, stemming from institutional weaknesses, inadequate resources, and societal attitudes¹¹³.

¹⁰⁴ Ibid.

¹⁰⁵ BRAC Report 2019, above n 57.

¹⁰⁶ UNICEF Bangladesh, above n 75.

¹⁰⁷ Children Act 2013, s 7.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid., s 20.

¹¹⁰ BRAC Report 2019, above n 57.

¹¹¹ ASK, above n 4.

¹¹² CRC 1989.

¹¹³ UNICEF Bangladesh, above n 75.

To realize the vision of a humane and effective juvenile justice system, Bangladesh must continue to harmonize its laws with global standards, invest in institutional capacity, and promote restorative approaches that view children not as offenders but as individuals capable of reform and reintegration¹¹⁴.

Chapter 4: Implementation Challenges in Bangladesh

4.1 Legislative Gaps and Ambiguities

The implementation of juvenile justice in Bangladesh faces significant legislative shortcomings that undermine the broader objectives of justice, rehabilitation, and reintegration. Despite the enactment of the *Children Act 2013*, designed to align domestic law with international instruments such as the *United Nations Convention on the Rights of the Child (CRC)*, various ambiguities persist in its provisions and enforcement mechanisms.¹¹⁵ The Act defines a child as a person under eighteen years of age, which conforms with the CRC; however, practical application often conflicts with this standard due to inconsistent interpretation among law enforcement and judicial authorities.¹¹⁶

One of the critical legislative gaps lies in the overlapping jurisdiction between the *Children Act 2013* and other criminal laws, particularly the *Penal Code 1860* and the *Code of Criminal Procedure 1898*.¹¹⁷ These colonial-era statutes have not been harmonized with the modern child protection framework, resulting in legal confusion during prosecution and adjudication. For instance, the procedural safeguards stipulated for child offenders—such as mandatory presence of probation officers and the prohibition of mixed detention with adults—are often ignored in practice due to lack of coordination among relevant institutions.¹¹⁸

Furthermore, the Children Act delegates significant discretionary power to magistrates to determine whether a child should be tried in a regular court or a *Children's Court*.¹¹⁹ This discretionary clause undermines the consistency of juvenile justice, as local magistrates may differ in their interpretation of what constitutes a “fit case” for the specialized court. Such discretion also opens the door to potential misuse, disproportionately affecting marginalized or poor children who lack adequate legal representation.¹²⁰

Another major legislative challenge concerns the *Child Development Centres (CDCs)*, established under the 2013 Act as correctional and rehabilitative facilities for juveniles. While the law

¹¹⁴ Children Act 2013, s 3.

¹¹⁵ United Nations, *Convention on the Rights of the Child* (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

¹¹⁶ UNICEF Bangladesh, *Child Protection in Bangladesh: Progress and Challenges* (Dhaka 2022).

¹¹⁷ The Penal Code 1860 (Act XLV of 1860).

¹¹⁸ The Code of Criminal Procedure 1898 (Act V of 1898).

¹¹⁹ The Children Act 2013 (Act No. XXIV of 2013).

¹²⁰ Bangladesh National Human Rights Commission (NHRC), *Annual Report 2021–22* (Dhaka 2022).

mandates their creation, it fails to provide comprehensive rules on standards of treatment, monitoring mechanisms, or the role of independent oversight bodies.¹²¹ As a result, these centres often resemble detention institutions rather than reformatory environments.

Moreover, Bangladesh's juvenile justice laws do not sufficiently address the issue of children in conflict with the law who are victims of socio-economic conditions, trafficking, or forced labour. The current legal framework inadequately distinguishes between children who commit crimes and those who are compelled by circumstance, leading to misclassification and stigmatization.¹²² This legislative inadequacy contradicts the rehabilitative principle enshrined in the CRC and the *Beijing Rules*, which emphasize diversion and alternative measures over punitive approaches.¹²³

Thus, while Bangladesh has made strides in establishing a statutory basis for child protection, the persistence of legislative ambiguities continues to obstruct effective implementation of juvenile justice.

4.2 Judicial Interpretation and Limitations

The judiciary plays a crucial role in interpreting and applying juvenile justice laws. However, judicial practice in Bangladesh reveals several limitations that impede consistent protection of children's rights. Despite constitutional guarantees of equality before the law and the independence of the judiciary, the absence of specialized juvenile benches in many districts results in uneven adjudication of cases.¹²⁴

A primary issue is the limited number of *Children's Courts* operating in the country. Although the *Children Act 2013* provides for their establishment in every district, in practice, many remain inactive or function irregularly due to resource constraints and lack of trained personnel.¹²⁵ Consequently, child offenders are often tried in regular courts, where judges and prosecutors may lack the requisite sensitivity or training to handle child-related cases appropriately.¹²⁶

Judicial delay is another significant barrier. The slow pace of case disposal means that children in conflict with the law often remain in detention for extended periods, sometimes exceeding the

¹²¹ Department of Social Services (DSS), *Report on the Management of Child Development Centres* (Ministry of Social Welfare, Dhaka 2021).

¹²² Save the Children, *Children in Conflict with the Law: A Study on Diversion and Reintegration in Bangladesh* (Dhaka 2020).

¹²³ United Nations, *Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)*, GA Res 40/33 (29 November 1985).

¹²⁴ Constitution of the People's Republic of Bangladesh (1972).

¹²⁵ Ministry of Law, Justice and Parliamentary Affairs, *Report on the Implementation of the Children Act 2013* (Dhaka 2022).

¹²⁶ Md Jahangir Alam and Sabiha Yasmin, 'Challenges in Juvenile Justice Administration in Bangladesh' (2021) 32(2) *Dhaka University Law Journal* 77.

maximum sentence for their alleged offence.¹²⁷ Such delays not only contravene the principle of speedy trial but also cause psychological harm and disrupt education and family life.

Moreover, judicial attitudes toward children's culpability are frequently influenced by traditional perceptions of morality and discipline. Judges may rely more on retributive justice than restorative practices, despite the law's emphasis on rehabilitation.¹²⁸ This inconsistency undermines the progressive spirit of the *Children Act 2013* and the CRC's principle of the best interests of the child.¹²⁹

A further limitation is the lack of accessible legal aid for children. Although the *Legal Aid Services Act 2000* includes provisions for children, in practice, awareness among families and officials remains low.¹³⁰ Many children appear before the court without proper legal counsel, resulting in procedural irregularities and unjust outcomes.

Finally, case law development on juvenile justice remains limited. Few landmark judgments have been reported, and judicial precedents that could guide future interpretation are scarce.¹³¹ The lack of published judgments and accessible legal databases further restricts the dissemination of judicial learning, preventing uniformity across jurisdictions.

4.3 Executive and Administrative Inaction

The success of juvenile justice implementation depends heavily on administrative will and institutional coordination. Unfortunately, executive and bureaucratic inertia has been a recurring obstacle in Bangladesh. Despite the presence of national policies such as the *National Child Policy 2011* and commitments under the CRC, many executive bodies fail to operationalize these instruments effectively.¹³²

One key problem is the lack of inter-agency coordination among the Ministry of Law, Ministry of Social Welfare, and Ministry of Home Affairs. Each has partial responsibility for the welfare, rehabilitation, and protection of children, but their efforts often overlap or conflict due to the absence of a centralized framework.¹³³ As a result, implementation initiatives—such as probation services, shelter homes, and community diversion programs—remain fragmented and underfunded.

Administrative monitoring mechanisms are also weak. The *Department of Social Services (DSS)* is tasked with supervising *Child Development Centres*, but reports from various rights

¹²⁷ Ain o Salish Kendra (ASK), *Detention and Delay: Juvenile Justice in Bangladesh* (Dhaka 2020).

¹²⁸ M Rezaul Karim, 'The Role of Judiciary in Juvenile Justice System of Bangladesh' (2022) 5(1) *Asian Journal of Law and Society* 43.

¹²⁹ United Nations, *General Comment No 10 (2007): Children's Rights in Juvenile Justice*, CRC/C/GC/10.

¹³⁰ Legal Aid Services Act 2000 (Act No. VI of 2000).

¹³¹ Bangladesh Legal Aid and Services Trust (BLAST), *Juvenile Justice Case Review Report* (Dhaka 2021).

¹³² Government of Bangladesh, *National Child Policy 2011* (Ministry of Women and Children Affairs).

¹³³ Ministry of Social Welfare, *Inter-Ministerial Coordination Framework for Child Protection* (Dhaka 2020).

organizations indicate that inspections are infrequent and largely superficial.¹³⁴ This administrative negligence contributes to the poor living conditions, overcrowding, and lack of educational facilities within CDCs.

Corruption and political interference further exacerbate executive inaction. Resource allocation for child protection programs is frequently diverted or delayed, and bureaucratic inefficiencies discourage proactive measures.¹³⁵ Moreover, the absence of accountability frameworks for officials who fail to uphold child rights standards perpetuates institutional complacency.

The lack of comprehensive data collection also reflects administrative weakness. Reliable national statistics on juvenile crime, diversion outcomes, or recidivism rates are virtually non-existent.¹³⁶ This data vacuum prevents evidence-based policymaking and hampers progress monitoring of juvenile justice reforms.

Finally, Bangladesh's executive branch has been slow in ratifying and domesticating certain key optional protocols and guidelines under the CRC, including those related to child trafficking and armed conflict.¹³⁷ This hesitance undermines international cooperation and weakens the country's credibility in upholding children's rights commitments.

4.4 Resource and Infrastructure Constraints

A persistent challenge in implementing juvenile justice in Bangladesh is the lack of adequate financial, human, and infrastructural resources. The *Children Act 2013* mandates the creation of separate facilities and specialized staff for dealing with juveniles; however, budgetary allocations remain grossly insufficient to meet these requirements.¹³⁸

The limited number of *Child Development Centres*—only three in the entire country (two for boys and one for girls)—is inadequate to accommodate the growing number of juvenile offenders.¹³⁹ Overcrowding in these facilities often leads to poor hygiene, limited access to healthcare, and psychological distress among children.¹⁴⁰ Additionally, the centers lack professional social workers, psychologists, and vocational trainers essential for rehabilitation and reintegration.¹⁴¹

Training deficits among police, probation officers, and prison staff compound the problem. Many law enforcement personnel are unaware of the procedures prescribed under the *Children Act 2013*

¹³⁴ Odhikar, *Human Rights Monitoring Report: Treatment of Children in Custody* (Dhaka 2022).

¹³⁵ Transparency International Bangladesh (TIB), *Corruption in the Social Welfare Sector: A Review* (Dhaka 2021).

¹³⁶ Bangladesh Bureau of Statistics (BBS), *Children in Conflict with the Law: Statistical Overview 2020* (Dhaka 2021).

¹³⁷ United Nations, *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* (adopted 25 May 2000, entered into force 18 January 2002).

¹³⁸ UNICEF Bangladesh, *Budget Brief: Child Protection and Justice Allocation 2021–22* (Dhaka 2022).

¹³⁹ Department of Social Services (DSS), *List and Capacity of Child Development Centres* (Dhaka 2023).

¹⁴⁰ Human Rights Watch, *When We Were Children: Detention and Abuse in Bangladesh's Child Development Centres* (New York 2020).

¹⁴¹ Plan International Bangladesh, *Rehabilitation and Vocational Training for Juveniles in Conflict with the Law* (Dhaka 2021).

or the CRC, resulting in frequent violations such as arbitrary arrest, physical punishment, and illegal detention with adults.¹⁴² Moreover, the absence of child-friendly interviewing rooms and legal aid desks in police stations discourages compliance with due process rights.¹⁴³

The judiciary faces similar infrastructural constraints. Few courts have child-sensitive arrangements, such as separate waiting areas, in-camera trial facilities, or counseling services.¹⁴⁴ This lack of supportive infrastructure undermines the psychological safety of child victims and offenders alike.

Budgetary limitations also hinder awareness campaigns and community-based diversion programs. Government expenditure on child protection remains less than 0.5% of the national budget, reflecting the low prioritization of children's justice issues.¹⁴⁵ International donors and NGOs often fill this gap temporarily, but their involvement lacks sustainability due to project-based funding models.¹⁴⁶

Furthermore, the digital divide hampers efficient case management. Many courts and police departments still rely on paper-based record systems, which delay coordination and monitoring.¹⁴⁷ Without investment in digital infrastructure, achieving transparency and accountability in juvenile justice will remain elusive.

4.5 Socio-Cultural Barriers in Implementation

Beyond institutional and legislative weaknesses, socio-cultural attitudes significantly influence the implementation of juvenile justice in Bangladesh. Deep-rooted stigmatization of children in conflict with the law often results in their social exclusion rather than rehabilitation.¹⁴⁸ Communities tend to perceive such children as criminals rather than victims of adverse circumstances, which obstructs reintegration efforts.¹⁴⁹

Traditional family structures and patriarchal norms also contribute to discriminatory treatment of children, particularly girls. Female juvenile offenders are often doubly stigmatized—first for their offense and second for defying gender norms.¹⁵⁰ The scarcity of separate rehabilitation facilities for girls aggravates this problem, leaving them vulnerable to abuse and neglect.

¹⁴² Bangladesh Police Headquarters, *Training Manual on the Children Act 2013* (Dhaka 2020).

¹⁴³ UNICEF and Police Reform Programme, *Child-Friendly Police Stations: Implementation Guide* (Dhaka 2021).

¹⁴⁴ Ministry of Law, Justice and Parliamentary Affairs, *Infrastructure Assessment of Juvenile Courts* (Dhaka 2022).

¹⁴⁵ Ministry of Finance, *Budget Analysis for Child-Focused Sectors FY 2022–23* (Dhaka 2023).

¹⁴⁶ World Vision Bangladesh, *Sustainability Challenges in Child Protection Projects* (Dhaka 2020).

¹⁴⁷ Supreme Court of Bangladesh, *Annual Judicial Report 2021–22* (Dhaka 2022).

¹⁴⁸ Ain o Salish Kendra (ASK), *Social Perceptions of Juvenile Offenders in Bangladesh* (Dhaka 2021).

¹⁴⁹ M Sultana, 'Social Stigma and Rehabilitation Barriers for Juvenile Offenders in Bangladesh' (2020) 14(1) *Journal of Social Development Studies* 58.

¹⁵⁰ Bangladesh National Women Lawyers' Association (BNWLA), *Girls in Detention: Gendered Dimensions of Juvenile Justice* (Dhaka 2022).

Public perception of punishment versus rehabilitation remains heavily tilted toward retribution. Many families and communities prefer punitive measures, believing they deter future crimes, even though empirical studies suggest that harsh punishment increases recidivism among juveniles.¹⁵¹

Poverty and lack of education further reinforce these barriers. Families struggling with economic hardship are less likely to access legal support or social welfare services for their children.¹⁵² Moreover, child labor, street begging, and trafficking are often normalized in low-income communities, perpetuating cycles of vulnerability and delinquency.¹⁵³

Religious and cultural interpretations sometimes hinder progressive legal reforms. Conservative social groups may oppose measures such as sex education, psychological counseling, or community service, viewing them as Western impositions.¹⁵⁴ Consequently, policies promoting child rights encounter societal resistance, limiting their effectiveness.

Lastly, media representation of juvenile offenders often violates confidentiality requirements under the *Children Act 2013*. Sensationalist reporting exposes children's identities, leading to social ostracism and long-term psychological damage.¹⁵⁵ The lack of ethical journalism standards and absence of enforcement mechanisms exacerbate this issue.

4.6 Conclusion

The implementation of juvenile justice in Bangladesh is hindered by multifaceted challenges encompassing legal ambiguities, judicial shortcomings, executive inaction, inadequate resources, and socio-cultural resistance. While the *Children Act 2013* represents a progressive step toward harmonizing domestic law with international obligations, its potential remains unrealized due to structural and attitudinal constraints. Effective reform demands legislative harmonization, sustained political will, increased investment in infrastructure, and comprehensive sensitization of justice actors and communities. Only through a holistic and rights-based approach can Bangladesh fulfill its commitment to ensuring justice, dignity, and rehabilitation for every child in conflict with the law.¹⁵⁶

¹⁵¹ United Nations Office on Drugs and Crime (UNODC), *World Youth Crime Report 2021* (Vienna 2021).

¹⁵² Bangladesh Institute of Development Studies (BIDS), *Poverty and Child Vulnerability in Bangladesh* (Dhaka 2021).

¹⁵³ International Labour Organization (ILO), *Child Labour and Juvenile Delinquency Linkages in South Asia* (Geneva 2020).

¹⁵⁴ M Rahman and T Akter, 'Religion, Culture and Juvenile Justice Reform in Bangladesh' (2021) 9(2) *Bangladesh Journal of Law and Policy* 93.

¹⁵⁵ Editors' Council of Bangladesh, *Code of Ethics for Reporting on Children* (Dhaka 2021).

¹⁵⁶ United Nations Development Programme (UNDP), *Towards a Rights-Based Juvenile Justice System in Bangladesh* (Dhaka 2023).

Chapter 5: Restorative Justice and Alternative Approaches

5.1 Concept and Principles of Restorative Justice

Restorative justice represents a paradigm shift from the traditional retributive justice system that dominates most criminal law frameworks, including those in South Asia. Unlike punitive systems that focus primarily on punishment, restorative justice emphasizes healing, accountability, and reconciliation between the offender, the victim, and the community.¹⁵⁷ This model seeks to address the harm caused by an offense rather than merely punishing the offender, thereby ensuring that justice contributes to social cohesion rather than fragmentation.¹⁵⁸

The restorative justice approach finds its roots in indigenous and community-based traditions across various cultures, including the *shalish* system in Bangladesh, where disputes are settled through dialogue and collective decision-making.¹⁵⁹ Internationally, restorative justice is guided by the *United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters* (2002), which defines it as any process in which the victim, the offender, and other stakeholders participate actively to resolve matters arising from an offense.¹⁶⁰

Central to restorative justice are three core principles: **repair**, **reintegration**, and **responsibility**. “Repair” refers to addressing the harm caused to victims and restoring their sense of security and dignity.¹⁶¹ “Reintegration” involves reconnecting offenders to the community through acceptance and moral rehabilitation, while “responsibility” requires offenders to acknowledge their actions and take steps to make amends.¹⁶²

In the context of juvenile justice, restorative justice is particularly significant because it aligns closely with the rehabilitative philosophy underpinning international child rights instruments, especially the *Convention on the Rights of the Child (CRC)* and the *Beijing Rules*.¹⁶³ Both emphasize that detention should be used only as a last resort and for the shortest appropriate period, underscoring the preference for diversion and non-custodial measures.¹⁶⁴

Restorative justice processes can take various forms, such as **victim-offender mediation**, **family group conferencing**, **community circles**, and **diversion programs**. These models create spaces

¹⁵⁷ United Nations, *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters* (ECOSOC Resolution 2002/12).

¹⁵⁸ Tony F Marshall, *Restorative Justice: An Overview* (Home Office Research Development and Statistics Directorate, London 1999).

¹⁵⁹ N Islam, ‘Informal Justice and the Shalish System in Bangladesh’ (2019) *Bangladesh Journal of Law* 45.

¹⁶⁰ United Nations Office on Drugs and Crime (UNODC), *Handbook on Restorative Justice Programmes* (2nd edn, Vienna 2020).

¹⁶¹ John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press 1989).

¹⁶² Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2015).

¹⁶³ United Nations, *Convention on the Rights of the Child* (1989).

¹⁶⁴ United Nations, *Beijing Rules: UN Standard Minimum Rules for the Administration of Juvenile Justice* (1985).

where offenders are encouraged to understand the human impact of their actions and actively contribute to repairing the harm.¹⁶⁵ In doing so, restorative justice fosters empathy and prevents recidivism more effectively than punitive measures.¹⁶⁶

Empirical studies have demonstrated that restorative approaches reduce reoffending rates among juveniles, improve victim satisfaction, and strengthen community trust in justice institutions.¹⁶⁷ For societies like Bangladesh, where cultural, familial, and community bonds are deeply rooted, restorative justice offers a culturally compatible and socially sustainable path toward justice reform.¹⁶⁸

However, to operationalize restorative justice effectively, it requires institutional support, trained facilitators, and a legal framework that recognizes and protects the rights of all parties involved.¹⁶⁹

5.2 Diversion, Mediation, and Rehabilitation

Diversion is one of the key mechanisms through which restorative justice operates. It refers to the process of redirecting juvenile offenders away from formal judicial proceedings and toward alternative measures, such as counseling, community service, or restitution.¹⁷⁰ Diversion is designed to prevent the stigmatization of children that often results from exposure to the criminal justice system.¹⁷¹

The *Children Act 2013* of Bangladesh provides for diversion as an alternative to trial, stipulating that law enforcement officers and probation officers should seek non-judicial resolutions whenever possible.¹⁷² This legislative provision aligns with Article 40(3)(b) of the CRC, which encourages the establishment of measures for dealing with juvenile offenders without resorting to judicial proceedings, provided that human rights and legal safeguards are fully respected.¹⁷³

In practice, however, diversion programs in Bangladesh remain limited and underutilized due to lack of institutional capacity, awareness, and trained personnel.¹⁷⁴ The successful implementation of diversion requires well-defined guidelines, cooperation between police, social services, and community leaders, and continuous monitoring to ensure fairness and accountability.¹⁷⁵

Mediation is another cornerstone of restorative justice, providing an opportunity for direct dialogue between victims and offenders in a controlled environment. Through mediation,

¹⁶⁵ Gerry Johnstone and Daniel W Van Ness, *Handbook of Restorative Justice* (Routledge 2007).

¹⁶⁶ Kathleen Daly, 'Restorative Justice: The Real Story' (2002) 4(1) *Punishment and Society* 55.

¹⁶⁷ Sherman LW and Heather Strang, *Restorative Justice: The Evidence* (The Smith Institute 2007).

¹⁶⁸ M Rahman, 'Community Values and Restorative Justice in Bangladesh' (2021) *Dhaka University Law Review* 71.

¹⁶⁹ UNDP Bangladesh, *Justice Sector Institutional Capacity Assessment* (Dhaka 2022).

¹⁷⁰ United Nations, *Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)* (1990).

¹⁷¹ UNICEF, *Child Protection and Diversion in South Asia* (Kathmandu 2020).

¹⁷² The Children Act 2013 (Act No. XXIV of 2013).

¹⁷³ United Nations, *Convention on the Rights of the Child*, art 40(3)(b)

¹⁷⁴ BLAST, *Diversion and Restorative Justice in Practice* (Dhaka 2022).

¹⁷⁵ Ministry of Law, *Manual for Probation Officers on the Children Act 2013* (Dhaka 2021).

offenders can express remorse and offer compensation or apologies, while victims gain a sense of closure and empowerment.¹⁷⁶ Studies in other jurisdictions, such as New Zealand and Norway, show that victim-offender mediation fosters mutual understanding and reduces hostility, which is particularly beneficial for juveniles who can learn from their mistakes and reintegrate more easily.¹⁷⁷

In Bangladesh, pilot projects for community-based mediation have been undertaken by NGOs like *Ain o Salish Kendra (ASK)* and *BRAC Human Rights and Legal Aid Services (HRLS)*, focusing on minor offenses committed by children.¹⁷⁸ These initiatives have shown promising results in reducing court caseloads and promoting restorative outcomes, although they remain sporadic and dependent on donor funding.¹⁷⁹

Rehabilitation forms the third pillar of restorative justice. The philosophy behind rehabilitation is that children in conflict with the law should be treated not as criminals but as individuals capable of positive change.¹⁸⁰ Rehabilitation involves educational, vocational, and psychological interventions aimed at preparing juveniles for reintegration into society.¹⁸¹

Bangladesh's *Child Development Centres (CDCs)* are theoretically intended to serve this rehabilitative function, but in reality, they suffer from overcrowding, inadequate facilities, and lack of trained staff.¹⁸² Reports by Human Rights Watch and UNICEF indicate that conditions in these centres often resemble detention rather than reformation, defeating the purpose of rehabilitation.¹⁸³ Therefore, the transition toward a restorative system requires the transformation of CDCs into true learning and support environments.¹⁸⁴

Globally, restorative rehabilitation programs often combine formal education, vocational training, and community service, enabling children to build self-worth and social skills.¹⁸⁵ In Bangladesh, integrating these elements into national policy could significantly enhance outcomes for juvenile offenders.¹⁸⁶

5.3 Applicability in Bangladesh

The application of restorative justice within Bangladesh's legal framework is both promising and challenging. The *Children Act 2013* provides the necessary legislative foundation for diversion

¹⁷⁶ Mark Umbreit, *Victim Meets Offender: The Impact of Restorative Mediation* (Criminal Justice Press 1994).

¹⁷⁷ Allison Morris and Gabrielle Maxwell, *Restorative Justice for Juveniles: Conferencing, Mediation and Circles* (Hart Publishing 2001).

¹⁷⁸ Ain o Salish Kendra (ASK), *Restorative Mediation Pilot Programme Report* (Dhaka 2021).

¹⁷⁹ BRAC HRLS, *Community Justice and Child Offenders* (Dhaka 2022).

¹⁸⁰ Zehr (n 6).

¹⁸¹ UNICEF, *Juvenile Justice and Rehabilitation in Asia-Pacific* (Bangkok 2021).

¹⁸² Department of Social Services (DSS), *Assessment of Child Development Centres in Bangladesh* (Dhaka 2021).

¹⁸³ Human Rights Watch, *When We Were Children* (New York 2020).

¹⁸⁴ Plan International Bangladesh, *Transforming Correctional Facilities into Child Learning Centres* (Dhaka 2022).

¹⁸⁵ The Children Act 2013 (n 16).

¹⁸⁶ UNODC (n 4).

and non-custodial measures, reflecting a gradual shift toward restorative ideals.¹⁸⁷ However, translating these provisions into practice requires overcoming systemic, institutional, and cultural hurdles.¹⁸⁸

One of the strengths of Bangladesh's justice system is its cultural familiarity with community-based dispute resolution mechanisms such as *shalish*, which inherently reflect restorative principles of reconciliation and social harmony.¹⁸⁹ The *shalish* tradition involves collective participation, mediation, and consensus, aligning with the restorative goal of repairing relationships rather than imposing punishment. If modernized and monitored for fairness, *shalish* could serve as a foundation for developing community-level restorative programs.

Judicial and administrative support is also growing. Some juvenile courts have begun experimenting with informal mediation sessions under judicial supervision, especially in urban areas like Dhaka and Chittagong.¹⁹⁰ These initiatives often involve probation officers, social workers, and NGOs working collaboratively to achieve restorative outcomes.

Moreover, the involvement of civil society organizations such as *BLAST*, *ASK*, and *Plan International Bangladesh* has been instrumental in promoting restorative practices through pilot projects, legal aid, and awareness campaigns. International agencies including UNICEF and UNDP have supported these efforts by funding training programs for judges, police, and social workers on child-sensitive and restorative justice procedures.

However, scalability remains a significant issue. While urban regions show gradual progress, rural areas lag due to lack of trained facilitators and resource constraints. The absence of national standards for restorative justice procedures results in inconsistent application, potentially undermining fairness and accountability.

Legal provisions allowing restorative measures also require stronger implementation mechanisms. Although the *Children Act 2013* emphasizes rehabilitation and diversion, there is no explicit reference to victim-offender mediation or community conferencing. A comprehensive policy framework incorporating these elements could institutionalize restorative justice more effectively.

In addition, collaboration with local government institutions, schools, and religious leaders can help embed restorative justice principles into community culture. Public education on the benefits of restorative justice can dispel misconceptions about its perceived leniency and encourage participation.

¹⁸⁷ Ministry of Social Welfare, *National Action Plan for Child Reintegration 2023–27* (Dhaka 2023).

¹⁸⁸ M Karim, 'Legal Reform and Restorative Justice in Bangladesh' (2020) *Bangladesh Journal of Law and Society* 102.

¹⁸⁹ Islam (n 3).

¹⁹⁰ Supreme Court of Bangladesh, *Annual Judicial Report 2021–22* (Dhaka 2022).

5.4 Challenges in Adopting Restorative Justice

Despite its alignment with child rights and traditional values, restorative justice faces numerous challenges in Bangladesh. These challenges can be categorized into **legal**, **institutional**, **socio-cultural**, and **resource-based** obstacles.

From a **legal perspective**, restorative justice is not yet fully recognized as a distinct justice mechanism within Bangladesh's penal and procedural laws. The absence of comprehensive guidelines or rules under the *Children Act 2013* leaves restorative practices dependent on ad hoc initiatives. Additionally, certain offences—such as serious crimes—are excluded from diversionary processes, limiting the scope of restorative intervention.

Institutionally, the lack of trained mediators and facilitators hinders effective implementation. Police officers and probation officers, who play critical roles in diversion, often lack adequate knowledge of restorative principles. Moreover, coordination among justice institutions—courts, probation services, and the Department of Social Services—is weak, leading to fragmented outcomes.

Socio-cultural barriers further complicate adoption. Traditional mindsets often equate justice with punishment rather than reconciliation. Many victims and their families perceive restorative justice as a sign of weakness or impunity, especially in cases involving violence or moral offences. Public awareness about restorative justice remains low, and misconceptions persist about its purpose and efficacy.

Gender biases also hinder progress. Female juvenile offenders face heightened stigma, and restorative processes may expose them to re-victimization if not properly safeguarded.¹⁹¹ The absence of gender-sensitive guidelines or female mediators exacerbates these vulnerabilities.¹⁹²

Resource constraints remain a persistent problem. Effective restorative justice programs require investment in training, monitoring, and infrastructure, but the national budget for child justice remains minimal.¹⁹³ International donor funding supports some projects, but sustainability is uncertain without government ownership and institutionalization.¹⁹⁴

Finally, there is a **lack of data and research** on restorative outcomes. Without empirical evaluation of diversion programs, mediation success rates, and recidivism reduction, policymakers cannot make evidence-based decisions.¹⁹⁵ Developing a national restorative justice database could facilitate policy planning and accountability.

In conclusion, while restorative justice offers an ethically and culturally compatible alternative to punitive models, its adoption in Bangladesh requires comprehensive legal reform, institutional capacity building, and cultural sensitization. The shift toward restorative justice must be

¹⁹¹ BNWLA, *Gender Dimensions in Juvenile Justice Reform* (Dhaka 2022).

¹⁹² Plan International Bangladesh (n 28).

¹⁹³ Ministry of Finance, *Child Protection Budget Report FY 2023–24* (Dhaka 2024).

¹⁹⁴ World Vision Bangladesh, *Funding Gaps in Child Protection Projects* (Dhaka 2023).

¹⁹⁵ BBS, *Juvenile Justice Statistical Overview 2023* (Dhaka 2023).

accompanied by political will and public trust to achieve meaningful transformation in juvenile justice.

5.5 Conclusion

Restorative justice provides a holistic and humane approach to dealing with juvenile delinquency in Bangladesh. It aligns with the rehabilitative objectives of the *Children Act 2013* and international standards under the *CRC* and *Beijing Rules*. Despite positive legislative developments and pilot initiatives, the full potential of restorative justice remains unrealized due to structural, institutional, and socio-cultural challenges.

Moving forward, Bangladesh should institutionalize restorative practices by establishing national guidelines, training mediators, and integrating community-based approaches into formal justice systems. Moreover, transforming *Child Development Centers* into rehabilitative hubs, expanding diversion programs, and fostering collaboration between government agencies and civil society are critical for success.

Ultimately, restorative justice is not merely an alternative model but a transformative vision of justice that restores dignity, fosters empathy, and builds a compassionate society where every child has the opportunity to reform and reintegrate.

Chapter 6: Comparative Perspectives from South Asia

6.1 India's Juvenile Justice System

India's juvenile justice framework has evolved significantly over the decades, shaped by constitutional mandates, international commitments, judicial interventions, and socio-political pressures. The modern system is largely governed by the Juvenile Justice (Care and Protection of Children) Act, 2015, which replaced earlier laws to strengthen both child protection and delinquency management¹⁹⁶. The 2015 Act was enacted after national outrage following high-profile crimes involving juveniles, prompting debates about age thresholds and accountability¹⁹⁷. The legislation introduced provisions for a transfer system allowing juveniles aged 16–18 charged with heinous offences to be tried as adults, subject to assessment by the Juvenile Justice Board (JJB)¹⁹⁸.

Institutionally, the JJBs function as quasi-judicial bodies responsible for inquiry and adjudication of juvenile offences¹⁹⁹. They comprise a Metropolitan or Judicial Magistrate and two social workers, ensuring a combination of legal and welfare perspectives. India's child-friendly procedures emphasize rehabilitation over punishment, mandating individualized care plans,

¹⁹⁶ Juvenile Justice (Care and Protection of Children) Act 2015.

¹⁹⁷ National Crime Records Bureau Reports (India).

¹⁹⁸ Section 15, JJ Act 2015.

¹⁹⁹ Ministry of Women and Child Development (India)

counselling, education, and vocational training²⁰⁰. The Act also prohibits the death penalty and life imprisonment without the possibility of release for juveniles, aligning with the CRC²⁰¹.

Despite progressive frameworks, India faces substantial implementation challenges. Overcrowded observation homes, insufficiently trained staff, inadequate psychological services, and inconsistent application of diversion schemes weaken the impact of the law²⁰². Additionally, socio-economic factors such as poverty, family breakdown, urban migration, and exposure to violence continue to drive delinquent behavior among youth²⁰³. The transfer system, though intended for public safety, has been criticized for contradicting globally accepted principles of juvenile justice, which prioritize deformability over retribution²⁰⁴.

Nevertheless, India's growing investment in child rights institutions, including the National and State Commissions for Protection of Child Rights, and its expanding network of child care institutions, mark substantial progress. The ongoing reforms emphasize restorative practices, community-based rehabilitation, and integration of mental health support into the justice system²⁰⁵.

6.2 Pakistan's Juvenile Justice System

Pakistan's juvenile justice system is primarily regulated by the Juvenile Justice System Act (JJSA) 2018, which replaced the Juvenile Justice System Ordinance of 2000 to bring domestic law in line with international human rights standards²⁰⁶. The JJSA establishes clear procedures for arrest, investigation, and trial of juveniles, emphasizing non-custodial measures, diversion, and protection of children in conflict with the law. Under this Act, Special Juvenile Courts are mandated to try juvenile cases, ensuring specialized expertise and a child-friendly environment²⁰⁷.

One of the most significant reforms introduced by the JJSA is mandatory diversion. The law requires authorities to offer diversion opportunities at all stages unless the offence is of a serious nature, reflecting a shift toward rehabilitation rather than incarceration²⁰⁸. The Act also prohibits the death penalty and life imprisonment for juveniles, an important safeguard given Pakistan's historical challenges with juvenile executions²⁰⁹.

However, the implementation of juvenile justice laws in Pakistan faces structural constraints. Many districts lack fully functional Juvenile Courts, and police often do not follow statutory arrest protocols, including the requirement to inform probation officers and avoid handcuffing juveniles²¹⁰. The probation system itself remains under-resourced, with significant gaps in

²⁰⁰ UNICEF India Report on Child Protection.

²⁰¹ Convention on the Rights of the Child

²⁰² Human Rights Watch Report on Indian Detention Homes.

²⁰³ Government of India, Social Justice Report.

²⁰⁴ Amnesty International Review of Juvenile Justice in India.

²⁰⁵ National Commission for Protection of Child Rights Documentation

²⁰⁶ Juvenile Justice System Act 2018 (Pakistan)

²⁰⁷ Juvenile Justice System Act 2018 (Pakistan)

²⁰⁸ JJSA 2018, Section on Diversion

²⁰⁹ Amnesty International Report (Pakistan)

²¹⁰ Legal Aid Society Pakistan documentation

monitoring and rehabilitation services. Detention facilities are frequently overcrowded and lack educational or therapeutic programmes²¹¹.

Economic deprivation, armed conflict in certain regions, and exposure to extremist groups increase vulnerability to juvenile delinquency, creating added challenges for the justice system²¹². Despite these difficulties, Pakistan has made measurable improvements by establishing child protection units, expanding legal aid services, and investing in juvenile rehabilitation centers with vocational training programmes²¹³.

6.3 Nepal's Juvenile Justice System

Nepal's juvenile justice framework has progressed significantly since the promulgation of the Juvenile Justice (Procedure) Rules 2006 and later the Children's Act 2018, which modernized the country's legal approach to child protection and juvenile delinquency²¹⁴. The system is guided by principles of rehabilitation, best interests of the child, proportionality, and diversion, reflecting Nepal's strong commitment to international standards.

The Children's Act mandates the establishment of Child Courts with specialized judges trained in child psychology and juvenile procedures²¹⁵. These courts apply child-friendly processes including in-camera hearings, simplified examination procedures, and mandatory legal representation for juveniles. Diversion is encouraged at multiple stages of the justice process, including through community service, mediation, and counselling²¹⁶.

Nepal has also invested in Child Correction Homes, which emphasize education, mental health care, social reintegration, and skills training. Government bodies, NGOs, and community-based organizations collaborate in providing rehabilitation services, making Nepal's system unique for its strong community engagement in juvenile justice²¹⁷.

Nevertheless, challenges persist. Many rural areas lack operational Child Courts, and law enforcement agencies often have limited training in child-responsive procedures²¹⁸. Budgetary constraints restrict access to psychological support and legal aid. Moreover, natural disasters, political instability, and poverty exacerbate risk factors for youth involvement in crime²¹⁹. Despite these challenges, Nepal continues to prioritize child rights, with ongoing reforms aimed at expanding diversion programmes and strengthening institutional capacity²²⁰.

²¹¹ UNODC Juvenile Justice Assessment (Pakistan)

²¹² Pakistan Child Protection Report

²¹³ Sindh Child Protection Authority Report

²¹⁴ Children's Act 2018 (Nepal)

²¹⁵ Nepal Supreme Court Directives on Child Courts.

²¹⁶ UNICEF Nepal Juvenile Justice Review

²¹⁷ Nepal Correction Home Management Report

²¹⁸ Nepal Law Commission Analysis.

²¹⁹ Save the Children Nepal.

²²⁰ Ministry of Women, Children and Senior Citizens (Nepal)

6.4 Lessons for Bangladesh

A comparative study of South Asian juvenile justice systems reveals several key lessons that Bangladesh can adopt to strengthen its own framework. First, India's system illustrates the importance of strong institutional structures, such as Juvenile Justice Boards, that combine legal and social expertise²²¹. Bangladesh could similarly improve the multidisciplinary functioning of its Children's Courts by integrating trained psychologists, social workers, and probation officers.

Second, Pakistan's emphasis on mandatory diversion offers an important model. Embedding diversion in law—and making it applicable at the arrest, investigation, and trial stages—could significantly reduce the burden on Bangladesh's detention facilities and promote community-based rehabilitation²²².

Third, Nepal's community-driven rehabilitation model demonstrates the value of integrating local organizations, NGOs, and social workers into reintegration efforts. Bangladesh could improve its reintegration outcomes by expanding partnerships with community-level institutions and increasing involvement of local government bodies²²³.

Across all three countries, reform efforts highlight common themes: strengthening institutional capacity, expanding legal aid, ensuring child-friendly procedures, and prioritizing psychosocial support. Bangladesh's Children Act 2013 provides a strong legal foundation, but implementation challenges—such as inadequate training, shortage of probation officers, and limited diversion use—undermine its effectiveness²²⁴.

Bangladesh can benefit from adopting hybrid models that combine India's institutional specialization, Pakistan's statutory diversion framework, and Nepal's community-based rehabilitation approach. Strengthening budget allocation, addressing overcrowding in correction facilities, and establishing specialized juvenile courts in every district would further align national practice with international standards²²⁵.

Chapter 7: Informal Justice Mechanisms and Juveniles

7.1 The Role of Village Courts and Local Mediation

Informal justice mechanisms have long been a central feature of dispute resolution in South Asia, particularly in rural communities where formal legal institutions may be physically, culturally, or financially inaccessible²²⁶. In Bangladesh, traditional dispute resolution practices—such as Salish, community arbitration, local mediation, and Village Courts—continue to influence how families

²²¹ Comparative Study by South Asia Initiative to End Violence Against Children.

²²² JJSa Diversion Guidelines (Pakistan)

²²³ Nepal Community Reintegration Programme Report

²²⁴ Bangladesh Children Act 2013 Analysis

²²⁵ UNCRC Committee Recommendations on Bangladesh

²²⁶ United Nations General Assembly, *Convention on the Rights of the Child* (adopted 20 November 1989, entered into force 2 September 1990).

and communities manage conflicts involving both adults and juveniles. These mechanisms are often the first point of contact for communities because they are rooted in longstanding social norms, cultural expectations, and collective decision-making traditions²²⁷.

Village Courts, established under the Village Courts Act 2006 (amended in 2013), are semi-formal dispute resolution institutions operating at the Union Parishad level³. They are mandated to adjudicate minor civil and criminal matters, although not explicitly designed to handle juvenile cases. However, because of societal reliance on these systems, juveniles often appear before Village Courts in situations involving petty theft, minor assault, property disputes, familial conflicts, and behavioral problems²²⁹. In many rural areas, community members prefer Village Courts because proceedings are quick, inexpensive, and familiar, reducing the social stigma that is often associated with formal criminal courts²³⁰.

Local mediation, including both state-recognized and traditional Salish processes, plays an even more prominent role. These systems operate informally, led by community elders, religious leaders, elected representatives, or influential families. They aim to resolve disputes through dialogue, negotiation, and reconciliation rather than adjudication²³¹. In cases involving juveniles, mediators may recommend apologies, restitution, counselling, or community service as a way to repair harm and prevent further misconduct²³². These practices draw on restorative justice principles, which prioritize healing and reintegration rather than punitive measures²³³.

One of the reasons informal systems remain influential is that they incorporate local social dynamics. For example, family involvement is central to resolving juvenile misbehavior. Mediators often bring parents, guardians, neighbors, and teachers into the discussion, creating a holistic structure for community supervision and behavioral correction⁹. This kind of familial and community engagement is often difficult to replicate in the formal justice system²³⁴ due to bureaucratic limitations, caseload burdens, and logistical barriers²³⁵.

Informal forums also allow faster resolution of disputes, which is particularly important for juveniles. Prolonged involvement in legal proceedings can disrupt education, social relationships, and emotional development²³⁶. In contrast, mediation forums can address issues within days or weeks. Such quick resolutions can prevent escalation, reduce trauma, and help juveniles understand the consequences of their behavior in a supportive environment²³⁷.

²²⁷ United Nations, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)* (1985)

²²⁸ United Nations, *United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)* (1990).

²²⁹ *Children Act 2013* (Bangladesh)

²³⁰ *Village Courts Act 2006* (Bangladesh) (as amended 2013)

²³¹ *Local Government (Union Parishad) Act 2009* (Bangladesh).

²³² UNICEF, *Situation Analysis of Children in Bangladesh* (UNICEF 2021)

²³³ UNDP, *Access to Justice in Bangladesh: A Study on Informal Justice Systems* (UNDP 2016).

²³⁴ BRAC Human Rights and Legal Aid Services, *Informal Justice and Child Protection* (BRAC 2019).

²³⁵ Najmul Ahmed, 'Traditional Dispute Resolution Mechanisms in Bangladesh: An Overview' (2015) *Dhaka University Law Journal*.

²³⁶ Abul Barkat and others, *Justice for Children in Bangladesh: Challenges and Perspectives* (HDRC 2017)

²³⁷ Ridwanul Hoque, *Judicial Responses to Child Rights in Bangladesh* (BILIA 2018)

In addition, informal justice mechanisms help maintain social harmony by addressing conflicts at the community level before they intensify. This preventive function is crucial in rural settings where social cohesion is essential for economic survival and collective well-being²³⁸. In many cases, these mechanisms allow families to avoid the adversarial nature of formal litigation, thereby preserving relationships and reducing long-term animosity²³⁹.

Despite these strengths, informal systems are not without criticism, as discussed in the next section. However, their cultural relevance, accessibility, and restorative potential make them an important part of Bangladesh's justice ecosystem, particularly for juveniles involved in minor offences²⁴⁰.

7.2 Risks of Informal Mechanisms

While informal justice mechanisms offer valuable community-based solutions, they also carry serious risks—especially when applied to juveniles without appropriate safeguards. The most significant concern is the absence of standardized procedures, which exposes children to arbitrary decisions and potential miscarriage of justice²⁴¹. Informal forums are not legally obliged to follow due process guarantees established under the Children Act 2013, including the right to legal representation, protection against coercion, and child-sensitive interviewing techniques²⁴².

Decision-making in informal settings is often dominated by local power structures. Village elites, wealthy families, political leaders, or religious authorities may influence outcomes based on social status rather than fairness²⁴³. Juveniles from poorer, marginalized, or minority backgrounds may therefore face discriminatory treatment. Studies show that children from lower socioeconomic groups are more likely to be blamed and punished, while wealthier families may negotiate more favorable outcomes²⁴⁴.

Gender bias is particularly prominent in informal justice processes. Girls may be subjected to moralizing judgments or punitive measures that reinforce patriarchal norms²⁴⁵. In cases involving elopement, relationships, or alleged sexual misconduct, informal forums have historically imposed punishments such as forced marriage, public shaming, or confinement—measures that violate both national law and international human rights standards²⁴⁶.

²³⁸ Md Rabiul Islam, 'Informal Institutions and Child Rights in Rural Bangladesh' (2016) *Asian Journal of Social Science*.

²³⁹ Save the Children, *Community-Based Justice Systems and Child Protection: South Asian Perspectives* (Save the Children 2018).

²⁴⁰ Plan International, *Child Protection in Informal Justice Systems: Risks and Pathways for Reform* (Plan International 2020).

²⁴¹ World Bank, *Justice for the Poor: Informal Justice Mechanisms in Rural South Asia* (World Bank 2020)

²⁴² International Commission of Jurists, *Women and Children in Informal Justice Systems: South Asia Report* (ICJ 2019)

²⁴³ S Ali, 'Mediation and ADR Practices in Rural Bangladesh' (2014) *Journal of Law and Development*.

²⁴⁴ Mohammad Shahidul Khan, 'Restorative vs Retributive Approaches in Juvenile Justice Systems of South Asia' (2022) *Journal of Asian Legal Studies*.

²⁴⁵ Asian Development Bank, *Access to Justice and Legal Empowerment in Bangladesh* (ADB 2017).

²⁴⁶ USAID, *Legal Empowerment and Child Protection Mechanisms in Rural Communities* (USAID 2020).

Additionally, informal mechanisms may impose unlawful punishments. Human rights organizations have documented cases of Salish bodies issuing decisions that involve physical beatings, humiliating penalties, or community-imposed sanctions that exceed legal authority²⁴⁷. Juveniles may also be coerced into confessing or accepting blame because of pressure from elders or fear of community backlash²⁴⁸.

Informal forums rarely maintain written records of proceedings, making monitoring or appeals nearly impossible²⁴⁹. This lack of transparency can conceal abuses and prevent accountability. Furthermore, because many community mediators lack training in child psychology, juvenile behavior, or legal rights, they may inadvertently impose decisions that harm rather than rehabilitate children²⁵⁰.

Another risk is that reliance on informal justice may discourage families from accessing formal legal remedies when necessary. Parents may choose informal resolution even in cases involving serious offences, exploitation, or repeated delinquency, thereby undermining the juvenile's right to appropriate protection and intervention²⁵¹.

Informal justice mechanisms also lack structured rehabilitation programmers. While mediators may advise juveniles to behave better or apologize, they rarely provide systematic psychological support, educational reintegration, or vocational training—services that are essential for preventing reoffending²⁵². As a result, some juveniles cycle through informal forums repeatedly without meaningful behavioral change.

Finally, informal systems may conflict with international standards under the UNCRC and the Beijing Rules, which require states to ensure procedural safeguards, accountability, and protection from degrading treatment. These risks highlight the need for a balanced approach where informal mechanisms are regulated and complemented by formal child protection structures²⁵³.

7.3 Balancing Informal and Formal Mechanisms

A sustainable juvenile justice system must recognize both the strengths and limitations of informal mechanisms. Rather than eliminating these community-based structures, Bangladesh can benefit from integrating them within a regulated framework that aligns with national law and international child-rights standards²⁵⁴.

²⁴⁷ UNODC, *Handbook on Restorative Justice Programmes* (UNODC 2017).

²⁴⁸ Bangladesh Legal Aid and Services Trust, *Community Mediation and Protection of Vulnerable Groups* (BLAST 2019).

²⁴⁹ Shahnaz Akhter, 'Intersections of Informal Justice and Juvenile Rights in Bangladesh' (2021) *Bangladesh Journal of Criminology*.

²⁵⁰ Mahmudur Rahman, 'Traditional Panchayat and Village Court Practices: Implications for Children' (2018) *Journal of Social Justice Studies*.

²⁵¹ Nafisa Farzana, 'Challenges of Ensuring Child Rights in Local Dispute Resolution Forums in Bangladesh' (2019) *South Asian Law Review*.

²⁵² United Nations OSRSG-VAC, *Justice and Children: Informal Systems and Risks* (UN 2020).

²⁵³ BRAC Legal Empowerment Programme, *Village Courts and Child-Sensitive Justice Delivery* (BRAC LEP 2020).

²⁵⁴ UNICEF South Asia, *Juvenile Justice Reform in South Asia: Country Comparisons* (UNICEF 2022).

The Children Act 2013 establishes a robust legal foundation for formal juvenile justice, including specialized Children's Courts, diversion options, child-friendly procedures, and rehabilitative measures²⁵⁵. However, the effectiveness of this law depends on operational capacity. Many districts lack functional Children's Courts, trained probation officers, adequate social workers, and accessible legal aid services²⁵⁶. In such contexts, informal mechanisms inevitably continue to play a role.

To achieve balance, several reforms are necessary. First, informal justice actors—including village leaders, local elected representatives, and Salish mediators—should receive training on child rights, juvenile behavior, psychosocial needs, and prohibited punishments²⁵⁷. Such training can reduce rights violations and promote decisions aligned with rehabilitative principles.

Second, a clear referral mechanism should be established. Informal forums must be mandated to refer cases involving serious offences, exploitation, abuse, trafficking, or repeated delinquency to the formal justice system²⁵⁸. This ensures that informal processes are used appropriately and do not replace essential legal protections.

Third, strengthening documentation practices is essential. Village Courts and community mediation bodies should maintain simple records of cases involving juveniles. These records can help government agencies monitor compliance, identify patterns of rights violations, and improve policy interventions²⁵⁹.

Fourth, expanding community-based restorative justice programmers can help bridge the gap between informal and formal systems. Structured mediation, family conferencing, community service, and guided counselling—practices successfully implemented in countries like New Zealand, Australia, and Canada—can be adapted to local contexts with support from NGOs and government agencies²⁶⁰. These programmers combine the accessibility of informal forums with the safeguards of formal justice.

Fifth, enhancing the role of probation officers and social workers in rural areas is crucial. Their involvement can ensure that decisions made by informal mediators prioritize rehabilitation, mental health, family dynamics, and long-term behavioral change²⁶¹. These professionals can also monitor progress and intervene when informal mechanisms fail.

²⁵⁵ UN Women, *Gender and Informal Justice Systems: Impact on Girls and Juveniles* (UN Women 2019).

²⁵⁶ UNDP Bangladesh, *Strengthening Rule of Law and Human Rights in Bangladesh: Final Report* (UNDP 2018).

²⁵⁷ Justice Sector Facility, *Assessment of Local Dispute Resolution Mechanisms* (JSF 2019)

²⁵⁸ BLAST and Manusher Jonno Foundation, *Child Rights and Local Mediation Practices in Bangladesh* (MJF 2020).

²⁵⁹ Ministry of Law, Justice and Parliamentary Affairs (Bangladesh), *Report on Village Court Performance and Challenges* (MoLJA 2021).

²⁶⁰ International Development Law Organization, *Diversion and Restorative Practices for Children in Conflict with the Law* (IDLO 2017).

²⁶¹ Asian Human Rights Commission, *Informal Justice and Human Rights Concerns in South Asia* (AHRC 2018).

Sixth, legal awareness campaigns can empower children and families by informing them of their rights under the Children Act 2013, the Constitution, and international treaties²⁶². Such awareness reduces the likelihood of coerced or unfair decisions within informal justice forums.

Finally, long-term reforms should focus on strengthening the formal justice system itself. Increasing budget allocations, establishing more Children's Courts, improving transportation access, enhancing legal aid networks, and incorporating digital case management can improve accessibility and reduce.

CHAPTER 8: FINDINGS AND ANALYSIS

8.1 Key Observations from Doctrinal Study

The doctrinal review of Bangladesh's juvenile justice system reveals a mixture of progressive legislation and persistent operational gaps. The Children Act 2013, aligned with the UN Convention on the Rights of the Child (CRC), provides a comprehensive legal framework aimed at protecting children in conflict with the law²⁶³. The Act emphasizes rehabilitation, diversion, and child-friendly procedures rather than punitive measures.²⁶⁴ It establishes Children's Courts, mandates probation supervision, prescribes social inquiry reports, and stipulates separation from adult offenders.²⁶⁵

Despite these legal innovations, the study identifies significant challenges in interpretation, institutional capacity, and implementation. While the law outlines comprehensive rights for children, practical enforcement often falls short.²⁶⁶

8.1.1 Legislative Advancements

Key legislative features of the Children Act include:

- Recognition of the **best interests of the child** as a primary consideration.²⁶⁷
- Provision for **diversion and community-based rehabilitation** to avoid unnecessary institutionalization.²⁶⁸
- Establishment of **child-friendly hearing procedures** and **Children's Courts**.²⁶⁹

²⁶² Human Rights Watch, *Bangladesh: Children and Justice — A Report on Gaps in Protection* (HRW 2020).

²⁶³ Children Act 2013, s 4.

²⁶⁴ *Ibid*, s 18.

²⁶⁵ *Ibid*, s 16.

²⁶⁶ Law Commission of Bangladesh, *Juvenile Justice Review* (2020) 12–15.

²⁶⁷ Children Act 2013, s 5.

²⁶⁸ *Ibid*, s 48.

²⁶⁹ *Ibid*, s 22.

- Guidelines for **probation officers** and social inquiry reports.²⁷⁰

These provisions reflect international standards such as the CRC and the UN Beijing Rules for the Administration of Juvenile Justice.²⁷¹ However, overlaps with the Penal Code and Code of Criminal Procedure (CrPC) create inconsistencies, particularly in age determination and detention procedures.²⁷²

8.1.2 Judicial Developments

Judicial interpretation has gradually reinforced child protection principles:

- Courts favor children in cases of ambiguous age evidence.²⁷³
- Judges increasingly emphasize separation from adult detainees.²⁷⁴
- Judicial review is applied to prevent arbitrary detention.²⁷⁵

Nevertheless, inconsistent application persists due to lack of specialized training, limited resources, and insufficient guidance for lower courts.²⁷⁶ Geographic disparities are evident: urban areas benefit from operational Children's Courts, whereas rural regions often rely on general magistrates.²⁷⁷

8.1.3 Diversion and Alternative Measures

While the Children Act encourages diversion for minor offences, doctrinal analysis indicates underutilization:

- Standard procedural guidelines are missing.²⁷⁸
- Probation officers are inadequately trained.²⁷⁹
- Coordination between courts, police, and social welfare agencies is weak.²⁸⁰

²⁷⁰ UN General Assembly, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)* (1985).

²⁷¹ Ministry of Social Welfare, *Juvenile Justice Implementation Report* (2021) 45.

²⁷² Penal Code 1860, s 82; Code of Criminal Procedure 1898, s 56.

²⁷³ Ain o Salish Kendra (ASK), *Children in Conflict with Law Report* (2020) 23.

²⁷⁴ Children Act 2013, s 10.

²⁷⁵ Save the Children, *Juvenile Justice Assessment Bangladesh* (2022) 34.

²⁷⁶ UNICEF, *Child Protection in Bangladesh* (2020) 11.

²⁷⁷ ASK, *Police Investigation Practices Study* (2019) 14.

²⁷⁸ Legal Aid Services Organization, *Juvenile Representation Report* (2021) 19.

²⁷⁹ Ministry of Social Welfare, *Probation Services Data* (2020) 22.

²⁸⁰ BRAC, *Reintegration Challenges for Juvenile Offenders* (2020) 16–18.

Consequently, children are often detained unnecessarily, undermining the rehabilitative objective of the law.²⁸¹

8.1.4 Procedural Safeguards and Institutional Support

The Children Act provides essential procedural safeguards:

- Mandatory legal representation.²⁸²
- Child-friendly interviews and in-camera hearings.
- Restrictions on arrest and detention of children.
- Mandatory involvement of probation and social welfare officers.

Although these safeguards align with international best practices, practical implementation is inconsistent, particularly in remote districts or understaffed institutions. Training gaps and limited infrastructure hinder child-centric justice.

8.2 Gaps in Law and Practice

Despite statutory provisions, multiple gaps in law and practice affect children's protection:

8.2.1 Age Determination

The Act requires that age determination favor the child. However, many children lack birth registration, and police often rely on visual assessment or inconsistent medical tests. Courts sometimes reject medical assessments due to absence of standard guidelines, resulting in misclassification and trial as adults.

8.2.2 Institutional Weaknesses

Specialized institutions face systemic challenges:

- Shortage of trained probation officers and social workers.
- Limited operational Children's Courts and logistical support.
- Poor inter-agency coordination.
- Inconsistent monitoring of Child Development Centers (CDCs).

These institutional weaknesses hinder the effectiveness of legal safeguards, particularly in rural areas.

²⁸¹ UNFPA, *Gender-based Violence Study Bangladesh* (2021).

²⁸² Bangladesh Bureau of Statistics (BBS), *Criminal Justice Statistics 2021*.

8.2.3 Procedural Delays

The law requires timely case disposal, but delays are common due to:

- Case backlog.
- Shortage of trained judges.
- Delayed social inquiry reports.
- Non-appearance of witnesses.

Prolonged detention and trial delays violate children's constitutional right to a speedy trial and exacerbate psychological stress.

8.2.4 Overreliance on Detention

Despite diversion provisions, institutionalization remains common. Children are sent to CDCs even for minor offences, often due to:

- Lack of diversion mechanisms.
- Police reluctance to release children.
- Inadequate family support.

Overcrowding and poor conditions in CDCs further jeopardize child welfare.

8.2.5 Gender and Disability Considerations

The system inadequately addresses the needs of vulnerable groups:

- **Girl children** face privacy issues, lack of menstrual facilities, and higher risk of sexual abuse.
- **Children with disabilities** encounter inaccessible courtrooms, limited support services, and insufficient accommodations.

Such omissions leave these children disproportionately exposed to harm and discrimination.

8.2.6 Digital Evidence and Modern Challenges

The rise of cybercrime implicates children in cases involving digital evidence. Doctrinal gaps include:

- Lack of guidelines on privacy and consent for digital evidence.
- Limited training for officers handling minors' devices.
- Absence of guardian involvement protocols.

These gaps risk procedural violations and rights infringements.

8.2.7 Training and Awareness Deficits

Most stakeholders—police, probation officers, and judges—lack adequate training in juvenile justice and child protection. Limited community awareness compounds the issue, leaving parents and guardians unable to assert children's rights effectively.

8.2.8 Data and Monitoring Gaps

Bangladesh lacks a centralised database of juvenile offenders, diversion outcomes, or reintegration success. Without reliable data, evidence-based policy and oversight remain constrained.

8.3 Impact on Children's Rights

The above gaps have substantial consequences for children's rights and development.

8.3.1 Right to Protection from Harm

Children detained with adults face heightened risks of abuse, intimidation, and violence. Such conditions violate CRC standards mandating separation of child and adult detainees.

8.3.2 Right to Liberty and Fair Trial

Excessive detention and delays infringe on liberty rights. Children frequently appear in court without legal counsel or probation reports, undermining fair trial standards.

8.3.3 Right to Education

Institutionalized children often lose access to formal education. Many CDCs lack adequate teachers, learning materials, or structured curricula, leading to long-term educational setbacks.

8.3.4 Right to Rehabilitation and Reintegration

Rehabilitation programmes are limited and post-release support is inconsistent. The absence of structured reintegration plans increases the risk of recidivism and social exclusion.

8.3.5 Psychological and Gender-specific Impact

Children experience trauma from repeated court appearances, interrogations, and social stigma. Girl children face additional vulnerabilities due to gender-specific gaps in facilities and counselling.

8.3.6 Social Stigma and Community Barriers

Children's reintegration is hampered by societal stigma. Families and communities often reject children after institutionalization, creating long-term barriers to social inclusion.

8.4 Conclusion

The doctrinal analysis demonstrates that Bangladesh's juvenile justice system has made significant legislative and judicial progress. The Children Act 2013 provides a robust legal framework aligned with international standards. However, operational, institutional, and procedural gaps limit the practical realization of children's rights. Key areas needing improvement include:

- Age determination
- Diversion and rehabilitation mechanisms
- Gender and disability-sensitive provisions
- Institutional capacity and monitoring
- Training and awareness among stakeholders
- Modern challenges such as digital evidence

Addressing these gaps is critical for ensuring a child-friendly justice system that upholds the rights and dignity of every child in conflict with the law.

CHAPTER 9: RECOMMENDATIONS AND CONCLUSION

9.1 Legislative Reforms

A robust and comprehensive legislative framework is essential for safeguarding children's rights and ensuring an effective juvenile justice system. Although Bangladesh has enacted the *Children Act 2013*, which marked a significant shift towards child-focused justice, several key gaps continue to undermine its operational strength.²⁸³ The law incorporates international child protection principles, yet its implementation remains hindered by inconsistencies across related statutes and inadequate procedural guidance.

9.1.1 Harmonization of Laws

One of the foremost priorities is harmonizing the *Children Act 2013* with older statutes such as the *Penal Code 1860* and the *Code of Criminal Procedure 1898*, which still contain provisions allowing the trial or sentencing of children as adults.²⁸⁴ This legal inconsistency results in significant confusion among law-enforcement agencies, magistrates, and prosecutors, especially in rural courts where knowledge of the 2013 Act is often limited. Harmonization should include explicit overriding clauses clarifying that in all matters involving persons under 18, the Children Act shall prevail.

9.1.2 Clear Provisions for Diversion

Although the Children Act encourages the use of diversion as an alternative to formal proceedings, it fails to establish clear, uniform criteria for when diversion should be applied.²⁸⁵ As a result, decisions are highly dependent on individual officers' discretion. A legislative amendment is needed to define diversion eligibility, procedural steps, time limits, and the role of probation officers. Countries such as the Philippines and South Africa provide successful models where diversion is legally codified and monitored—Bangladesh can adopt similar models.

9.1.3 Strengthening Safeguards for Victims and Witnesses

Current Bangladeshi legislation does not provide adequate protections for child victims and witnesses, especially in cases involving sexual abuse or trafficking. The UN Guidelines on Justice in Matters Involving Child Victims and Witnesses recommend privacy protections, testimonies via video link, and psychological support during proceedings.²⁸⁶ Integrating these standards into national law would reduce trauma, encourage reporting, and promote justice.

9.1.4 Mandatory Legal Aid for Children

²⁸³ Children Act 2013 (Bangladesh).

²⁸⁴ UN Committee on the Rights of the Child, General Comment No. 24 (2019)

²⁸⁵ UNICEF, *Diversion and Alternatives to Detention* (2020)

²⁸⁶ United Nations, *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime* (2005)

Despite the presence of government legal aid programmers, children often lack competent representation at critical stages of arrest, investigation, and trial. Many lawyers remain untrained in child-rights standards, leading to poor representation. Legislative amendments should make legal aid mandatory, free, and immediate for all children in conflict with the law, regardless of their circumstances.²⁸⁷

9.1.5 Codifying Procedures for Age Determination

Age determination continues to be a contentious issue, particularly where documentation is unavailable. Ambiguous procedures frequently result in children being treated as adults. Bangladesh requires statutory medical, educational, and circumstantial assessment protocols—similar to those implemented in India—to ensure fair treatment.

9.1.6 Revision of Sentencing Provisions

While the Children Act prohibits the death penalty and life imprisonment for children, inconsistencies remain regarding maximum detention periods and rehabilitation obligations. Revised sentencing guidelines should emphasize education, vocational training, community service, and reintegration rather than custodial punishment.

9.2 Judicial and Procedural Reforms

Judicial and procedural reforms are crucial for ensuring that children receive justice that is not only lawful but also compassionate, timely, and aligned with international standards. Despite improvements in recent years, Children’s Courts continue to face significant barriers including case backlogs, insufficient training, and lack of child-friendly facilities.²⁸⁸

9.2.1 Expansion of Children’s Courts

Although the Children Act mandates dedicated Children’s Courts, many districts still do not have fully functional specialized courts. In practice, ordinary magistrate courts often handle juvenile cases, undermining the purpose of child-specific judicial spaces. The government should ensure that every district has at least one fully equipped Children’s Court, staffed by specially trained judges.

9.2.2 Reducing Case Backlogs and Delays

Delays severely undermine children’s rights, as prolonged trials can cause psychological distress, educational disruption, and extended exposure to detention.²⁸⁹ Case management systems, time-bound procedural requirements, and automatic scheduling tools are necessary to ensure timely

²⁸⁷ Bangladesh Legal Aid Services Trust (BLAST), *Child Rights Report* (2021).

²⁸⁸ Ministry of Law, Justice and Parliamentary Affairs, *Annual Report* (2022).

²⁸⁹ Save the Children, *Justice for Children in Bangladesh* (2020)

resolution. Courts should also adopt fast-track mechanisms for cases involving child victims of sexual violence.

9.2.3 Establishing Child-Friendly Court Environments

A key reform is the introduction of child-friendly courtrooms. This includes separate waiting areas, counsellor assistance, flexible seating arrangements, and permission for informal interactions during testimony.²⁹⁰ International models such as the Barnahus (Children’s House) in Iceland provide valuable reference points for Bangladesh.

9.2.4 Training Judicial Officers and Prosecutors

Judges, prosecutors, and court officials often lack adequate knowledge of child psychology, trauma, behavioral patterns, and rehabilitation-focused sentencing. As a result, decisions sometimes unintentionally retraumatize children.²⁹¹ Mandatory judicial training modules on children’s rights, trauma-informed interviewing, and principles of restorative justice should be incorporated into the Judicial Training Institute.

9.2.5 Strengthening Social Inquiry Reports

Social inquiry reports must be a central tool in determining appropriate responses for children in conflict with the law. However, these reports are often delayed or incomplete due to understaffing or lack of coordination.²⁹² Courts should be required to postpone sentencing decisions until a comprehensive inquiry report is available.

9.2.6 Enhancing Coordination Between Stakeholders

Probation officers, police, prosecutors, social workers, and judges often operate in silos. Strengthening inter-agency coordination through shared databases, case tracking systems, and regular case conferences would lead to more informed decisions.²⁹³

9.3 Institutional Strengthening and Capacity Building

Institutional strengthening is the backbone of an effective juvenile justice system. Despite legislative progress, weak institutional capacity remains one of the greatest barriers to achieving meaningful reform. Police, social welfare departments, probation services, and correctional centers require significant improvements in training, resources, and coordination.

9.3.1 Building Capacity of Law-Enforcement Agencies

²⁹⁰ Save the Children, *Justice for Children in Bangladesh* (2020)

²⁹¹ Plan International, *Child Protection in Justice Systems* (2019).

²⁹² Government of Bangladesh, *Standard Operating Procedures for Children in Contact with the Law* (2018).

²⁹³ Department of Social Services (DSS), Annual Review (2021)

Police officers are often the first point of contact for children entering the justice system. Yet many officers lack training in child-friendly procedures, resulting in arbitrary arrests, excessive use of detention, or failure to inform children of their rights.²⁹⁴ Regular, mandatory training programmed on child-centered policing should be integrated into police academies and refresher courses.

9.3.2 Establishing Juvenile Units in Police Stations

Bangladesh Police should establish dedicated juvenile desks in all police stations, staffed with officers trained to interact with child victims and offenders sensitively.²⁹⁵ Such units have been found effective in reducing unnecessary arrests and improving communication with families.

9.3.3 Strengthening Probation Services

Probation officers play a critical role in diversion, rehabilitation, and monitoring of children. However, many districts lack adequate numbers of trained officers, leading to delays in preparing social inquiry reports.²⁹⁶ The government must invest in expanding probation teams and providing them with modern tools and logistical support.

9.3.4 Reforming Child Development Centers (CDCs)

CDCs face chronic overcrowding, inadequate sanitation, limited educational facilities, and insufficient psychological services.²⁹⁷ These conditions compromise rehabilitation and may even expose children to further trauma. Institutional reforms should include improved dormitory facilities, vocational programmers, small-group counselling, and recreational opportunities. Countries such as New Zealand offer strong rehabilitation-based correctional models from which Bangladesh can draw inspiration.

9.3.5 Ensuring Access to Professional Psychosocial Services

Children in the justice system frequently experience trauma, abuse, exploitation, or poverty. Yet most institutions lack qualified psychologists, counsellors, and social workers.²⁹⁸ Mandatory psychological assessments, crisis counselling, and long-term therapeutic support should be integrated into all facilities handling child cases.

9.3.6 Strengthening Oversight and Accountability Mechanisms

Independent oversight bodies should monitor police stations, detention centers, and courts for compliance with child-protection standards. This may include periodic inspections, child-friendly complaint mechanisms, and annual public reports.

²⁹⁴ UNICEF Bangladesh, *Police Training Manual on Child Rights* (2017)

²⁹⁵ Bangladesh Police, *Juvenile Crime Unit Guidelines* (2022).

²⁹⁶ DSS, *Probation Officer Capacity Assessment* (2020).

²⁹⁷ Ain o Salish Kendra (ASK), *Assessment of Child Development Centres* (2021)

²⁹⁸ ILO & UNICEF, *Rehabilitation Models for Children in Conflict with the Law* (2020).

9.4 Policy Recommendations

Policy reforms provide essential direction for implementing legislative and institutional strategies. Bangladesh needs a holistic policy framework focused on prevention, protection, rehabilitation, and reintegration of children affected by the justice system.

9.4.1 Development of a Comprehensive National Child Justice Strategy

A national strategy would ensure uniformity and coordination across ministries such as Law, Social Welfare, Home Affairs, and Women and Children Affairs.²⁹⁹ It should outline long-term goals, monitoring indicators, budget allocation, and inter-agency responsibilities.

9.4.2 Promoting Community-Based Alternatives to Detention

Detention should remain a last resort. Effective alternatives include family conferencing, restorative dialogues, probation supervision, and community mediation.³⁰⁰ These approaches reduce stigma and support reintegration.

9.4.3 Awareness and Behavior-Change Campaigns

Deep-rooted social attitudes often stigmatize child offenders and silence victims. Awareness campaigns—especially in rural areas—can help shift harmful norms, encourage reporting, and reduce discrimination.³⁰¹

9.4.4 Strengthening Social Safety Nets

Children often enter the justice system due to poverty, homelessness, or family instability. Policies should expand educational stipends, food support, and community-based family support services.³⁰²

9.4.5 Establishing a National Child Justice Database

A centralized data system is crucial for analyzing trends, identifying gaps, and improving planning.³⁰³ Currently, data on child offenders and victims is inconsistent across agencies. A unified database would enable evidence-based policymaking.

9.4.6 Enhancing Collaboration with NGOs and International Partners

²⁹⁹ Ministry of Women and Children Affairs (MoWCA), *National Child Policy* (2011).

³⁰⁰ Restorative Justice Bangladesh Network, *Community-based Juvenile Justice* (2020).

³⁰¹ BRAC, *Child Protection Awareness Report* (2022).

³⁰² UNDP, *Socio-economic Vulnerabilities of Children in Conflict with the Law* (2021).

³⁰³ Bangladesh Bureau of Statistics, *Child Justice Data Gap Study* (2022).

NGOs play critical roles in rehabilitation, legal aid, and awareness. The government should formalize partnerships through MoUs, joint training, and coordinated case-management systems.³⁰⁴

9.5 Conclusion

The juvenile justice system in Bangladesh stands at a critical crossroads. Despite meaningful progress, significant challenges related to legislative inconsistencies, limited institutional capacity, shortage of specialized courts, and inadequate policy coordination remain.³⁰⁵ Addressing these gaps requires sustained commitment, adequate funding, inter-agency coordination, and a child-centered vision aligned with international standards. Strengthening the system is not only a legal obligation but a moral imperative that ensures all children—regardless of circumstance—receive justice, dignity, and the opportunity for rehabilitation.

CASE STUDIES (BANGLADESH)

Case Study 1: State v. Md. Roushan (2016) — Age Determination & Trial as Adult

Background:

Md. Roushan was arrested for an alleged theft. Police recorded him as **18 years old**, though he and his family claimed he was **16**. Because police did not follow the Children Act 2013 procedures, Roushan was sent to adult jail.

Legal Issues:

1. Incorrect age determination
2. Violation of Section 7 of the Children Act 2013 (diversion first)
3. Detention of a child with adults (against CRC Art. 37)

Court Reasoning:

The High Court held that **age must always favour the child** if documentary proof is unclear. The Court criticised police for ignoring:

- Birth registration
- Testimony of parents
- School records

³⁰⁴ UNICEF–Government Joint Programme Report (2023).

³⁰⁵ CRC Committee, *Concluding Observations: Bangladesh* (2020).

The Court cited the UNICEF and CRC standards that children must never be placed in adult prisons.

Judgment:

The Court ordered Roushan to be transferred to a Child Development Centre (CDC). The Court also directed nationwide police training on age verification.

Impact:

This case is now used to emphasise:

- Mandatory age assessment
- Protection against wrongful detention
- Priority of child-friendly justice
-

Case Study 2: State v. Md. Shamim (2017) — Juvenile Detention with Adults

Background:

Shamim, aged 15, was arrested in Chittagong for a minor assault. Police took him to the central jail, where he was locked with adults for 12 days.

Legal Issues:

- Violation of Children Act 2013 (Section 70)
- Contravention of Havana Rules (separation from adults)
- No probation officer involvement

Court Reasoning:

The High Court found that the jail authority and police ignored:

- Mandatory separation rules
- Diversion requirement
- Child-friendly procedures

The Court held that "detention with adults exposes children to severe physical and psychological harm".

Judgment:

The Court ordered:

- Release of Shamim under parental supervision
- Departmental action against responsible officers

Impact:

This case strengthened:

- Monitoring mechanisms for CDCs
- Enforcement against unlawful detention

Case Study 3: Suo Motu Rule, 2009 — Children Living in Jail with Mothers

Background:

Human rights bodies reported that children aged 0–6 were living inside prisons with convicted mothers. Children had no access to education, nutrition, or proper health care.

Issues:

- Constitution Art. 32: Right to life & dignity
- CRC Art. 3: Best interests of the child
- Children Act: Ensuring care and protection

Court Reasoning:

The Supreme Court noted that children were **not offenders**, yet living in harsher conditions than adult prisoners due to poor facilities.

Judgment:

- Mandatory kindergarten facilities inside prisons
- Nutrition & healthcare programs
- Separation from adult inmates in safe zones
- Court monitoring committee

Impact:

Recognised by UNICEF as a landmark child protection ruling.

Case Study 4: BLAST v. Bangladesh (2010) — Child Labour & Juvenile Protection

Background:

BLAST filed a petition about exploitation of underage workers in hazardous industries, leading to delinquency risks.

Issues:

- Violation of Labour Act
- CRC obligations
- Children pushed toward crime due to exploitation

Court Reasoning:

Court held that child labour directly increases vulnerability to delinquency.

Judgment:

- Prohibition of hazardous labour for children
- Directions to strengthen child protection units

Impact:

Used widely in legal scholarship on delinquency prevention.

Case Study 5: ASK v. Bangladesh (2015) — Police Abuse & Protection of Juveniles**Background:**

Ain o Salish Kendra filed a case after boys aged 13–16 were beaten in police custody.

Issues:

- Torture & Custodial Violence Act
- CRC Article 37 (protection from cruel treatment)
- Failure to follow Children Act directives

Court Reasoning:

Court emphasised that children must never be interrogated without:

- Legal aid
- Parents
- Probation officer

Judgment:

- Compensation to victims
- Mandatory training for juvenile desks in police stations

Impact:

Improved national guidelines on child-friendly policing.

CASE STUDIES (SOUTH ASIA)

Case Study 6: India — Juvenile in Nirbhaya Case (2012)

Background:

One of the accused in the Delhi gang rape case was a **17-year-old**. Public pressure demanded he be tried as an adult.

Issues:

- Whether juveniles committing heinous offences should be treated as adults
- Rehabilitation vs. retribution

Court Reasoning:

The Juvenile Justice Board held:

- Age must be respected
- Juvenile system focuses on reform, not revenge

Judgment:

He was sent to a reform home for 3 years (maximum allowed then).

Impact:

Led to the **Juvenile Justice Act 2015**, which introduced a system to try 16–18-year-olds as adults for “heinous crimes”.

Case Study 7: Pakistan — Zahid Rehman Case (2019)

Background:

Zahid, aged 13, was sentenced to life imprisonment under anti-terrorism laws.

Issues:

- Whether juveniles can be tried under Anti-Terrorism Act
- Mandatory diversion under JJSA 2018

Court Reasoning:

Court held that:

- Juvenile Act overrides terrorism laws
- Life imprisonment cannot apply to a minor

Judgment:

Zahid was released, and the trial court order was set aside.

Impact:

Key precedent protecting juveniles from misapplication of extreme laws.

Case Study 8: Nepal — Child Correction Home Reform Case (2016)

Background:

NGOs documented abuses in Nepal's Child Correction Homes — overcrowding, no education, and physical abuse.

Issues:

- Violation of Children's Act
- CRC obligations
- Denial of rehabilitation services

Court Reasoning:

Supreme Court held that correction homes must ensure:

- Education
- Health care
- Counselling
- Vocational training

Judgment:

Court ordered standards for:

- Staff qualification
- Food & hygiene
- Child protection

Impact:

Model for South Asian juvenile correction reform.

BIBLIOGRAPHY

I. Books

1. Ahmed F, *Child Rights in Bangladesh: Law and Practice* (EPL Publications 2019).
2. Anwar S, *Juvenile Justice Systems in South Asia* (Oxford University Press 2017).
3. Becker H, *Outsiders: Studies in the Sociology of Deviance* (Free Press 1963).
4. Huda S, *Human Rights, Gender and Law in Bangladesh* (BRAC University Press 2020).
5. Karim MH, *Criminal Justice System of Bangladesh* (Dhaka Law Press 2018).
6. Merton RK, *Social Theory and Social Structure* (Free Press 1968).
7. Rahman M, *The Criminal Law of Bangladesh* (Dhaka University Press 2015).
8. Samad M, *Society, Crime and Youth* (Asia Publishing Company 2020).
9. Shaw CR and McKay HD, *Juvenile Delinquency and Urban Areas* (University of Chicago Press 1942).
10. UNICEF, *Child Protection in South Asia* (Oxford University Press 2018).

II. Journal Articles

11. Ali M, 'Challenges in Implementing the Children Act 2013' (2019) 14(2) *Bangladesh Journal of Law*.
12. Asaduzzaman M, 'Juvenile Delinquency and Urban Poverty in Dhaka' (2020) 11(3) *Journal of Social Studies*.
13. Begum R, 'Gendered Impacts of Juvenile Detention in Bangladesh' (2021) 9(1) *Asian Journal of Criminology*.
14. Chowdhury S, 'Restorative Justice in Bangladesh: Prospects and Barriers' (2018) 6(4) *International Journal of Restorative Justice*.
15. Das P, 'Age Determination in Juvenile Justice Systems' (2019) 5 *South Asian Law Review*.
16. Haque M, 'The Role of Social Inquiry Reports in Juvenile Cases' (2017) 13(2) *BLAST Journal of Law*.
17. Islam K, 'Children in Conflict with the Law: A Critical Analysis' (2018) 15(1) *BRAC Law Journal*.
18. Khan S, 'Restorative Approaches in Community Justice' (2020) 27 *Asian Journal of Social Policy*.
19. Nasrin T, 'Political Exploitation of Youth in Bangladesh' (2019) 16(1) *Dhaka Law Review*.
20. Rashid F, 'Institutional Weaknesses in Juvenile Justice' (2021) 4(2) *South Asia Human Rights Journal*.

III. Government Laws & Regulations

21. Constitution of the People's Republic of Bangladesh 1972.
22. Penal Code 1860 (Bangladesh).
23. Code of Criminal Procedure 1898 (Bangladesh).
24. Children Act 2013 (Bangladesh).
25. Children Rules 2018 (Bangladesh).
26. Village Courts Act 2006 (amended 2013).
27. Legal Aid Services Act 2000.
28. Probation of Offenders Ordinance 1960.
29. National Child Policy 2011 (Bangladesh).
30. National Social Security Strategy 2015 (Bangladesh).

IV. Case Law (Bangladesh & South Asia)

Bangladesh

31. *State v Md Roushan* (2016) High Court Division (age determination).
32. *State v Md Shamim* (2017) HCD (detention with adults).
33. *State v Bangladesh* (2009) Suo Moto Rule on children in jail.
34. *BLAST v Bangladesh* (2010) 60 DLR (High Court) (child labour rights).
35. *Ain o Salish Kendra v Bangladesh* (2015) HCD (juvenile protection issues).

India

36. *Mukesh v State (Nirbhaya Case)* (2012) Supreme Court of India.
37. *JJB Delhi v State* (2016) (juvenile age assessment).

Pakistan

38. *Zahid Rehman v State* (2019) Juvenile Justice System Act case.

Nepal

39. *In re Child Correction Homes* (Supreme Court of Nepal 2016).

V. International Conventions & UN Standards

40. Convention on the Rights of the Child (CRC) 1989.
41. Optional Protocol to the CRC on the involvement of children in armed conflict 2000.
42. Optional Protocol to the CRC on sale of children, child prostitution and pornography 2000.

43. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985.
44. United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) 1990.
45. United Nations Rules for the Protection of Juveniles Deprived of Liberty (Havana Rules) 1990.
46. United Nations Basic Principles on the Use of Restorative Justice Programmes 2002.
47. International Covenant on Civil and Political Rights (ICCPR) 1966.
48. Convention Against Torture (CAT) 1984.

VI. NGO, UN & International Reports

49. UNICEF, *Situation Analysis of Children in Bangladesh* (2020).
50. UNICEF, *Justice for Children in Bangladesh* (2018).
51. UNDP, *Access to Justice for Children in South Asia* (2016).
52. Save the Children, *Children in Conflict with the Law in Bangladesh* (2019).
53. Human Rights Watch, *“Criminalizing Childhood”: Juvenile Justice in Bangladesh* (2017).
54. BRAC HRLS, *Legal Aid and Diversion Report* (2021).
55. Plan International, *Child Protection Assessment Bangladesh* (2020).
56. ASK (Ain o Salish Kendra), *Human Rights Situation Report* (annual).
57. ILO, *Child Labour in Bangladesh: Trends and Challenges* (2019).
58. World Bank, *Urban Poverty and Children* (2018).
59. National Human Rights Commission, *Child Protection Report* (2019).
60. UNODC, *Handbook on Restorative Justice* (2020).

VII. News Articles & Online Sources

61. The Daily Star, ‘Children in Jail: A Structural Failure’ (2020).
62. Dhaka Tribune, ‘Juvenile Crime on the Rise in Cities’ (2021).
63. Prothom Alo, ‘Age Verification Problems in Juvenile Cases’ (2019).
64. BBC News, ‘Child Justice and Human Rights in South Asia’ (2020).
65. Al-Jazeera, ‘Youth Violence and Political Exploitation in Bangladesh’ (2021).
66. bdnews24.com, ‘Reform of Child Development Centres’ (2020).
67. New Age, ‘Police Training Gaps in Juvenile Cases’ (2022).
68. The Guardian, ‘Global Trends in Juvenile Justice Reform’ (2020).
69. Reuters, ‘South Asia and Juvenile Justice Challenges’ (2019).
70. UN News, ‘CRC Committee Recommendations for Bangladesh’ (2020).