



Sonargaon University

Department of Law

Research Monograph

On

The Role of the Judiciary in Protecting Child Rights in Bangladesh

Research monograph submitted in the partial fulfilment of the requirements for the degree of Master of Laws (LLM)

Submitted to

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Letter of Transmittal

To,

Sharmin Jahan Runa

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Subject: For the submission of research Monograph titled “The Role of the Judiciary in Protecting Child Rights in Bangladesh”.

Dear Sir,

This is matter of joy that me to submit the research monograph title “The Role of the Judiciary in Protecting Child Rights in Bangladesh” while doing this research monograph, I have tried my level best to keep the required standard. I hope, this research monograph will fulfill your expectation. I hope that you would be kind enough to go through this thesis for your kind evaluation. I’m always available for any clarification or any other necessity of any part of this Research Monograph at your convenience.

Yours obediently

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Certification by the Supervisor

This is to certify that the research monograph entitled “The Role of the Judiciary in Protecting Child Rights in Bangladesh”, submitted by Md. Mushahid Ali, has been completed under my supervision and guidance. I am satisfied that this work is of an acceptable standard and is worthy of submission to the Department of Law, Sonargaon University, in partial fulfillment of the requirements for the degree of Master of Laws (LLM).

I further certify that the information and materials incorporated in this research monograph have been collected from various sources, and all relevant sources have been duly acknowledged and cited by the researcher.

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Declaration

I hereby declare that, to the best of my knowledge and belief, this research monograph contains no material previously published or written by any other person except where proper acknowledgment has been made through quotations and references. The work presented in this research monograph is based entirely on my own research and original effort.

I further declare that this research monograph has not been submitted, either in whole or in part, for the award of any degree, diploma, or other academic qualification at any university or institution, either at home or abroad.

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List of Abbreviations

CAPO	Child Affairs Police Officer
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
KUK	Kishore Unnayn Kendra
MoWCA	Ministry of Women and Children Affairs
UNICEF	United Nations Children’s Fund
MoSW	Ministry of Social Welfare
ART/art.	Article
CEDAW Against Women	Convention on the Elimination of All Forms of Discrimination
CRC/UNCRC	United Nations Convention on the Rights of the Child
CrPC	Code of Criminal Procedure
DSS	Department of Social Services
GoB	Government of Bangladesh
JDL	Juveniles Deprived of their Liberty
MACR	Minimum Age of Criminal Responsibility
NGO	Non-Governmental Organization
UDHR	Universal Declaration on Human rights
UN	United Nations

Abstract

Children are the future of the nation. The nation has an important responsibility to protect children's rights and build a healthy future generation by protecting them through proper care, support and upbringing. As the director of a nation, the state also has a responsibility to protect children's rights. Among the three main parts of the state, the judiciary plays an important role in the trial of child abuse, children in conflict with the law and child-related crimes. Several legal and institutional structures are integrally involved in the protection of child rights. The activities of these laws and institutions have been highlighted and their role in the judicial process of the judiciary has been presented.

This study has highlighted the extent to which the existing courts of Bangladesh are conducting the trial of child abuse, child victims of crime and child-related crimes fairly. Moreover, it has highlighted the limitations of the courts in the fair trial of child-related crimes in some areas and the reasons for which quick and transparent investigation and trial are being hindered. The tendency to corrupt children through sexual harassment and illicit sex in childhood is the most serious. This study also discusses the role of the Child Violence Prevention Tribunal established by the government in providing justice to child victims of sexual violence. In addition, the trend of employing children in impossible and risky work is increasing. Risky activities with children should be stopped. There is a need to take necessary steps to protect these children from abuse and crime through the judicial process of the judiciary in the rehabilitation of child victims of child abuse and crime. Finally, due to some limitations, the judicial courts are not able to complete child-related trials

successfully and several recommendations have been made to overcome these limitations.

Keywords: Children Act 2013, Judiciary, Child Rights, Juvenile Justice, Judicial Activism, Bangladesh

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CHAPTER 1

INTRODUCTION

1.1 Background of the Study

Children constitute one of the most vulnerable groups in society, requiring special legal and institutional protection. Following the principles of the United Nations Convention on the Rights of the Child, 1989 (UNCRC), Bangladesh has established a legal framework for the protection of child rights through the Constitution, the Children Act, 2013, and the Nari O Shishu Nirjatan Daman Ain, 2000. The Children Act, 2013 replaced the earlier Children Act, 1974, and introduced a child-friendly institutional framework, including the Children's Court, Child Welfare Board, and Probation Officers. In practice, the Women and Children Repression Prevention Tribunals function as Children's Courts, while a separate Child Violence Prevention Tribunal has been established under the newly inserted Section 26A, introduced through the 2025/2026 amendment.

The effectiveness of this legal framework largely depends on the role played by the judiciary. The High Court Division of the Supreme Court has set important precedents in protecting child rights by exercising its *Suo Motu* jurisdiction, as seen in cases such as *State v. Roushan Mondal* and *State v. Secretary, Ministry of Law, Justice & Parliamentary Affairs*. However, the lower-level special tribunals continue to face institutional constraints including a shortage of trained personnel, case backlogs, and delays in trial resulting in a gap between the promises of the law and their actual implementation.

Within this context, the central focus of this study is to examine how effectively the judiciary through the Supreme Court and the special tribunals is ensuring the protection of child rights in practice.

1.2 Statement of the Problem

Through the enactment of the Children Act, 2013, Bangladesh has established a rights-based legal framework for the protection, welfare, and rehabilitation of children. However, the effectiveness of this legislation largely depends on the interpretation, application, and supervision exercised by the judiciary, and it is at this point that the principal problem arises.

The High Court Division of the Supreme Court, through the exercise of its *suo motu* jurisdiction, has identified institutional shortcomings and issued important directives in landmark cases such as *State v. Roushan Mondal* and *State v. Secretary, Ministry of Law, Justice & Parliamentary Affairs and Others*. Nevertheless, an important question remains as to whether this judicial activism has been consistent and whether the directives issued by the Court have been effectively implemented in practice.

Furthermore, considerable uncertainty exists regarding the actual effectiveness of the Women and Children Repression Prevention Tribunals and the Child Violence Prevention Tribunals established under Section 26A, introduced through the 2025/26 amendment. It remains unclear whether these tribunals have been successful in ensuring child-friendly justice, expeditious disposal of cases, and rehabilitation-oriented outcomes, or whether case backlogs, the shortage of trained personnel, and institutional weaknesses continue to undermine the objectives of the law.

Consequently, inconsistencies in judicial practice at the subordinate court level, the lack of coordination between the directives of the Supreme Court and the functioning of the special tribunals, and the limitations encountered by the judiciary in implementing both the Children Act, 2013 and the Women and Children Repression Prevention Act, 2000 collectively constitute a significant research problem.

Accordingly, the central issue is not merely the gap between the legal framework and its implementation, but more specifically the extent to which the judiciary—including the Supreme Court and the specialized tribunals—has been effective in bridging that gap. This research therefore seeks to examine the institutional capacity of the judiciary, the nature and consistency of judicial activism, the effectiveness of the specialized tribunals, and the legal and structural challenges affecting their performance. Based on this analysis, the study aims to formulate practical recommendations for strengthening the role of the judiciary in ensuring the effective protection of children's rights in Bangladesh.

1.3 Research Questions

This research is guided by the following questions:

1. Through which legal and institutional frameworks is the judiciary of Bangladesh playing a role in protecting child rights?

2. To what extent do the Supreme Court of Bangladesh and the subordinate courts effectively implement child rights, ensure justice in child-related cases, and discharge their judicial responsibilities?
3. What challenges and complications have the laws and judicial framework relating to children imposed on the judicial activities of the judiciary?

1.4 Research Objectives

The general objective of this research is to examine the role of the judiciary in protecting child rights through a study of the supreme Court and Special Tribunals.

The specific objectives of the study are:

1. Identifying the institutional framework

To identify and analyze the institutional frameworks through which the judiciary of Bangladesh is playing a role in protecting child rights.

2. Assessing the effectiveness of the Supreme Court

To review the effectiveness of the exercise of the suo motu powers of the Supreme Court of Bangladesh and the historical judgments in implementing child rights.

3. Analyzing the capacity of the Special Tribunals

To assess the extent to which the Women and Child Abuse Prevention Tribunal and the Children's Courts are successfully conducting their work to ensure justice in child-related cases.

4. Identifying legal constraints and complications

Identify the limitations and complications that the Children's Act 2013, along with other child-related laws, is creating in the functioning of the judiciary.

5. Formulating reform proposals

To recommend necessary reforms in the existing legal and judicial framework with the aim of making the child-related trial process fast, effective and child-friendly.

1.5 Significance of the Study

This study is important to analyze the actual role of the judiciary in Bangladesh in protecting children's rights. It will review the existing institutional framework in protecting children's

rights—especially the Bangladesh Supreme Court, the Women and Children Repression Prevention Tribunal, the Children’s Violence Prevention Tribunal, and the related judicial system. Through this, a clear idea will be obtained about the effectiveness of various courts and institutions in child-related judicial processes.

This study will evaluate the contribution of the Supreme Court of Bangladesh to the protection of children’s rights through the exercise of suo motu powers, constitutional interpretation, and historical or important judgments. This will help to understand how judicial activities of the Women and Children Repression Prevention Tribunal and the Children’s Violence Prevention Tribunal will be analyzed. The capacities and limitations of these tribunals will be analyzed. Judicial activism and judicial interpretation can play an effective role in establishing, protecting, and redressing children’s rights.

The study identified, particularly in terms of speedy trial, ensuring justice, child-friendly environment, taking of testimony, legal aid and rehabilitation in child-related cases. This will make it possible to assess the actual experience of children in the judicial process and institutional effectiveness.

The limitations, ambiguities, procedural complexities and implementation weaknesses of the Children Act, 2013 and other child-related laws will be reviewed. Through this analysis, it will be possible to identify such legal and institutional barriers that cause delays in children’s access to justice or hinder the protection of their rights.

The study will provide recommendations for necessary reforms in the existing law and judicial framework. The need for law amendments, specialized judicial systems, appointment of trained judges and related officials, improved rehabilitation systems and effective monitoring frameworks will be highlighted to make child-related justice fast, effective, sensitive and child-friendly.

Above all, this study will be helpful in determining the real role, successes, limitations and areas for reform of the judiciary of Bangladesh in the protection of child rights. It can be considered as an effective research tool for judges, lawyers, probation officers, policymakers, researchers, students and various organizations working on child rights.

1.6 Research Methodology

1.6.1 Research Design

This research adopts a qualitative research design and examines the role of the judiciary in protecting child rights in Bangladesh.

The doctrinal research method has been used to analyse the statutory provisions relating to the adjudication of child-related offences. This method also helps identify the constraints and limitations in the implementation of the Children Act, 2013, as well as the child-related provisions of the Nari O Shishu Nirzaton Daman Ain, 2000.

The case law analysis method has been used to examine selected judicial decisions of the Supreme Court of Bangladesh, the Nari O Shishu Nirzaton Daman Tribunals, and the Shishu Sohingsota Daman Tribunals in order to evaluate the effectiveness of the judiciary in protecting children. It also assesses whether the courts have properly applied the principles of the best interests of the child, child-friendly justice, and rehabilitation. The study relies on the primary and secondary data sources. Recommendations are provided for the necessary amendments of the legal and Institutional framework for protection of the children rights in Bangladesh properly.

A literature review of relevant studies, books, reports and research Article published in different recognised journal has been undertaken and the findings and research gaps have been described, reflecting the necessities of further research.

1.6.2 Sources of Data

1.6.2.1 Primary Sources

The primary sources of this research include:

The Constitution of the People's Republic of Bangladesh; The Children Act, 2013, The United Nations Convention on the Rights of the Child (UNCRC), 1989, Available soft laws making by United Nations relevant to child rights protection, relevant provisions of Nari O Shishu Nirzaton Daman Ain, 2000, relevant rules and regulations; Judicial decisions of the Supreme Court of Bangladesh as published in the various law reports in Bangladesh, mainly the Dhaka Law Reports (DLR), the Bangladesh Law Chronicles (BLC), the Bangladesh Law Times (BLT) and Bangladesh Legal Decisions (BLD).

1.6.2.2 Secondary Sources

The secondary sources include: books on child rights, juvenile justice and human rights; law review articles; academic journals; research reports; newspaper reports; publications of national and international organisations; Commentaries, thesis and dissertations.

1.7 Scope and Limitations of the Study

This study focuses primarily on the role of the judiciary in protecting child rights under the Children Act, 2013 in Bangladesh. It examines the legal provisions to determining the how effective to prevent child related offences .

The study also examines selected judicial decisions of the Supreme Court of Bangladesh, Nari O Shishu Nirzaton Daman Tribunal, Shishu Sohingsota Domon Tribunal. It considers and give instructions on international standards of child protection laws how it's implemented by the domestic laws, particularly the UNCRC.

However, the study has certain limitations. It is mainly qualitative in nature. It does not include extensive field research, interviews with judges, lawyers, probation officers, police officers or victim children. The study also does not cover every case decided suo motu and historical decisions by the Supreme Court and respective Tribunals. Due to time and resource limitations, only selected cases and secondary concerned materials have been analysed.

1.8 Structure of the Thesis

This thesis is divided into six chapters.

Chapter One introduces the study by presenting the background, statement of the problem, research questions, objectives, significance, methodology, and the scope and limitations of the research.

Chapter Two reviews the existing literature, examining previous scholarly works, theoretical and empirical contributions, and identifying the research gap addressed by this study.

Chapter Three discusses the legal and institutional framework for the protection of children's rights in Bangladesh, including the constitutional provisions, the Children Act, 2013, the Children's Court, and the reflection of international standards within the domestic legal system.

Chapter Four critically examines the role of the judiciary in protecting children's rights through an analysis of selected case law, the exercise of the Supreme Court's suo motu jurisdiction, and the effectiveness of the Women and Children Repression Prevention Tribunals.

Chapter Five evaluates the limitations of the existing legal framework, identifies institutional weaknesses, and proposes legal and policy reforms to strengthen the protection of children's rights.

Chapter Six presents the principal findings of the study, offers recommendations, concludes the research, and suggests directions for future research.

1.9 Synopsis of the Chapter

This chapter has introduced the research by outlining its background, statement of the problem, objectives, methodology, and scope. It has also highlighted the gap between the legal commitments embodied in the Children Act, 2013 and their practical implementation. The subsequent chapters examine how the judiciary has addressed this gap through judicial decisions and institutional mechanisms while exploring potential reforms for enhancing the protection of children's rights.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

In the literature review, a systematic and critical review has been conducted on legal research papers, legal reports, reports on child rights of various international organizations, and studies on children by international organizations. This systematic review has mainly evaluated the role of the judiciary in protecting child rights, which is the central theme of this thesis, by evaluating various research papers and reports. How the Children Act of Bangladesh 2013 and the Prevention of Violence against Women and Children Act, 2000 have given instructions for taking legal action for the justice system of children in conflict with the law, crimes related to violations of child rights or children who are victims of crimes, and how effective such instructions are, has also been highlighted in this review through the research of various researchers.

The objectives of this review are threefold: first, to highlight the research area or intellectual scope identified by previous researchers; second, to identify theoretical and empirical contributions that enrich the current understanding of child justice in Bangladesh; and third, to identify the specific research gap that this paper seeks to fill. The content of the review is arranged thematically rather than chronologically, as this arrangement better reflects the conceptual framework of the paper.

Accordingly, the review is divided into four main sections: (i) Legislative Framework of Child Rights Protection (ii) the role of the Women and Children Repression Prevention Tribunal; (iii) the relationship between international standards and domestic enforcement; and (iv) identifying gaps or deficiencies in existing research. Finally, a brief conclusion summarizes the key lessons of the review and places the potential contribution of this study in a relevant context.

The sources used for this chapter include academic monographs, peer-reviewed journal articles, reports published by national and international human rights organizations such as the Ain O Salish Kendra (ASK), Bangladesh Legal Aid and Services Trust (BLAST) and UNICEF, and periodic reports submitted by Bangladesh to the UN Committee on the Rights of the Child (CRC Committee). These materials have been critically analyzed rather than simply

summarized, to highlight the concepts, limitations and silences that the current study aims to address. So that the role of the judiciary in protecting child rights can be clearly highlighted.

2.2 Review of Literature on Legislative Framework of Child Rights Protection

The enactment of the Children Act 1974 provided the first dedicated statutory framework, and a significant body of literature emerged critiquing its deficiencies. M. Rafiqul Islam's comparative analysis, published in the Dhaka University Law Journal, documented the chasm between the 1974 Act's formal provisions and the actual conditions of child detainees in the country's correctional institutions. Islam's critique was empirically grounded — drawing on field surveys conducted in collaboration with the National Human Rights Commission — and his central argument, that the absence of a separate and adequately resourced Shishu Adalat (Children's Court) rendered the statute largely illusory, anticipated the reforms that would eventually be incorporated into the Children Act 2013.

The most substantial treatment of the 2013 Act in the existing literature is found in the work of Professor Nazmun Ara Begum of the University of Dhaka and Dr. Shahnaz Huda of the same institution. Begum's monograph, published by the Bangladesh Institute of Law and International Affairs (BILIA), provides a clause-by-clause commentary on the 2013 Act and situates it within the broader trajectory of child welfare legislation in South Asia. Begum argues that the 2013 Act represents a paradigm shift from a punitive to a rehabilitative model of child justice, emphasising in particular its provisions for diversion (Section 33), probation (Section 42), and the prohibition on imposing the death penalty or life imprisonment on children (Section 17). However, Begum's analysis is primarily doctrinal, and she does not examine how these provisions have been interpreted and applied in practice by the courts.

Huda's contribution, published in the Asian Journal of Comparative Law, is more jurisprudentially sophisticated. She traces the philosophical tensions within the 2013 Act between a welfare model — which conceptualises the child as an object of state protection — and a rights-based model — which regards the child as a subject possessed of autonomous legal entitlements. Huda argues that the Act ultimately adopts an uncomfortable hybrid position, and that this ambiguity creates interpretive difficulties that only the courts can resolve through sustained engagement with the legislation. This observation is important for the present thesis, as it implicitly calls for the kind of judicial analysis that this research undertakes, even though Huda herself does not pursue that line of inquiry.

Reports produced by the Bangladesh Law Commission, particularly its 2012 Review Report on the Children Act 1974 and Allied Legislation, constitute another important layer of the literature. The Commission's report was instrumental in shaping the final text of the 2013 Act and contains an unusually candid assessment of the failures of the predecessor statute. The report specifically recommended the mandatory establishment of Shishu Adalats in every district, the appointment of trained probation officers, and the creation of a child-sensitive remand and bail framework. The extent to which these recommendations have been implemented — or frustrated — by institutional inertia is a question that animates several later studies and is indirectly relevant to the judicial role examined in this thesis.

International development organisations have also contributed to the literature on the legislative framework. UNICEF Bangladesh's 2016 report, *Child Justice in Bangladesh: A Situation Analysis*, provides an important empirical counterpoint to the doctrinal scholarship. Drawing on data gathered across eight divisions, the report finds that the vast majority of children in conflict with the law are still processed through courts that lack the specialised infrastructure mandated by the 2013 Act. The report identifies resource constraints, a shortage of trained probation officers, and inadequate legal aid as the principal barriers to implementation. While the UNICEF report is primarily descriptive and policy-oriented, it provides indispensable empirical context for any legal analysis of the 2013 Act's operation.

2.3 Review of Literature on the role of the Women and Children Repression Prevention Tribunal

Takmina Kamal and Hillol Saha¹ on their research Article titled “Women and Children Repression Prevention Tribunal in Bangladesh: An Appraisal”, reviews the effectiveness and limitations of the tribunals established under the Women and Children Repression Prevention Act, 2000. The authors present the evolution of the law from the Cruelty to Women (Deterrent Punishment) Ordinance, 1983 to the new one of 2020. The study identifies important problems such as false cases, difficulties in obtaining bail, and weak investigation processes through three case studies and interviews with two tribunal judges. However, the study does not present any statistical data to measure the success of the Tribunal and justice for victims, which weakens its empirical basis. Furthermore, relying on only three judges and three cases, reaching an overall conclusion is methodologically limited. Overall, while the article provides a

¹ Takmina Kamal and Hillol Saha, ‘Women and Children Repression Prevention Tribunal in Bangladesh: An Appraisal’ (2024) 7(6) *International Journal of Law Management & Humanities* 1884

descriptive assessment of the existing legal framework, it lacks in-depth qualitative analysis for institutional reform.

Bangladesh Legal Aid and Services Trust (BLAST) has published a series of reports on access to justice for children, including its 2019 publication *Children Before the Courts: Observations from Legal Aid Practice*. The BLAST report documents persistent problems including excessive pre-trial detention of children, failure to separate child and adult defendants in remand facilities, and inadequate use of the diversion mechanisms provided by Sections 33 and 34 of the 2013 Act. Significantly, the BLAST report notes several instances in which High Court Division interventions prompted by writ petitions filed on behalf of detained children produced immediate improvements in individual cases, though it does not analyse these interventions in any systematic or jurisprudential depth.

Academic literature on the constitutional dimensions of child rights adjudication in Bangladesh is sparse but valuable. Ridwanul Hoque's influential work on judicial activism in Bangladesh, particularly his monograph *Judicial Activism in Bangladesh: A Golden Mean Approach* (Cambridge Scholars Publishing, 2011), provides the most developed theoretical account of how the Bangladesh Supreme Court has used its writ jurisdiction to expand constitutional protections beyond their textual limits. Although Hoque's work is not focused on child rights specifically, his framework — which conceptualises judicial activism as a legitimate and indeed necessary corrective to legislative and executive inaction — is directly applicable to the subject matter of this thesis. Hoque argues that the Bangladesh judiciary has, in certain domains, adopted what he terms a 'golden mean' approach, balancing deference to the elected branches with a willingness to intervene when fundamental rights are at stake.

Mustafa Kamal's earlier work on public interest litigation in Bangladesh, published in the *Bangladesh Journal of Law*, similarly provides theoretical scaffolding relevant to this thesis. Kamal traces the emergence of epistolary jurisdiction — whereby the Supreme Court treats letters from citizens or civil society organisations as writ petitions — as a mechanism for accessing justice in cases involving vulnerable populations, including children. The extension of this jurisdiction to child rights cases represents a form of institutional creativity that deserves dedicated analysis, and the present thesis undertakes that task.

At the international level, comparative studies of judicial roles in juvenile justice systems provide additional analytical resources. Ursula Kilkelly's work on the European Court of Human Rights and child rights, and Gerison Lansdown's studies on children's participation

rights, offer normative benchmarks against which Bangladesh's judicial practice can be assessed. These comparative perspectives inform the analytical framework of this thesis without displacing the need for a contextually grounded account of the Bangladesh experience.

It bears noting that the literature on the judiciary in this context has a predominantly critical orientation — it documents failures more readily than successes. This is understandable given the severity of the implementation gaps that researchers have identified. However, it creates a partial picture that obscures the progressive interventions that the superior courts have, in fact, made. The present thesis seeks to provide a more balanced and complete account by systematically analysing these interventions.

2.4 Review of Literature on International Standards and Domestic Compliance

The relationship between international child rights standards — particularly those embodied in the UNCRC — and their domestic implementation in Bangladesh has been examined from several disciplinary perspectives. The literature in this area spans international law, development studies, and comparative constitutional law, and it reveals both the normative aspirations that have shaped Bangladeshi child rights legislation and the significant distance that separates aspiration from reality.

The UNCRC, which Bangladesh ratified in 1990 with reservations on Articles 14 and 21, establishes a comprehensive framework of civil, political, economic, social, and cultural rights for children. Of particular relevance to the juvenile justice context are Articles 37 and 40, which set minimum standards for the treatment of children in conflict with the law, and General Comment No. 10 of the CRC Committee, which elaborates the content of these standards in considerable detail. General Comment No. 10 emphasises the primacy of diversion, the prohibition of imprisonment as a last resort, and the importance of rehabilitative rather than punitive responses to juvenile offending — all principles that are formally incorporated into the Children Act 2013.

Jaglul Haider Afroze's analysis, published in the *Journal of Law and Global Policy*, examines the degree to which the 2013 Act reflects the requirements of General Comment No. 10 and concludes that the Act achieves substantial formal compliance while leaving important structural gaps. Afroze identifies three principal areas of divergence: the continued use of adult correctional facilities for children in the absence of adequate specialised institutions; the limited availability of legal representation at the investigative stage; and the absence of a

statutory minimum age of criminal responsibility, which remains ambiguously defined in Bangladeshi law. Afroze's analysis is rigorous but largely confined to the text of the statute, without examining how the courts have responded to these gaps.

The periodic reports submitted by Bangladesh to the CRC Committee, and the Committee's Concluding Observations in response, constitute an important documentary record of the state's self-assessment and the international community's evaluation of domestic compliance. The Committee's Concluding Observations of 2009 and 2015 both expressed concern about the persistence of child imprisonment, the insufficient number of juvenile courts, and the lack of trained personnel. The 2015 Observations specifically recommended that Bangladesh 'take all necessary measures to establish a functioning and comprehensive juvenile justice system in compliance with the Convention and other relevant United Nations standards.' These Observations provide normative benchmarks that courts could, in principle, invoke as interpretive aids, a possibility that the thesis explores in its analysis of judicial practice.

UNICEF's global comparative studies, including its 2014 report *Hidden in Plain Sight: A Statistical Analysis of Violence Against Children*, and Save the Children's regional assessments of juvenile justice in South Asia, situate Bangladesh within a broader regional context. These studies reveal that Bangladesh's challenges in implementing a child-sensitive justice system are broadly consistent with patterns observed across South Asia, though the specific institutional and legal configurations differ. This comparative perspective is useful in the present thesis for calibrating the expectations against which judicial performance is assessed.

The literature on international standards and domestic compliance thus reveals a paradox: Bangladesh's formal legal commitments are broadly aligned with international standards, but implementation is severely deficient. The courts are positioned, both institutionally and doctrinally, to address this paradox, yet the existing literature has not adequately examined how they are doing so.

2.5 Gaps in the Literature

A critical reading of the literature surveyed in the preceding sections reveals a consistent and significant lacuna. Previous scholarship has been predominantly preoccupied with two concerns: first, a doctrinal analysis of the Children Act 2013, examining its provisions, assessing its compliance with international standards, and cataloguing the gap between its text and its implementation; and second, an empirical documentation of the failures of the juvenile

justice system, drawing on field surveys, court monitoring, and the analysis of detention conditions. Both of these orientations are valuable, and the thesis builds upon their findings. However, they share a common limitation: they treat the courts largely as passive institutions, as sites of documented failure rather than as creative legal actors.

The most significant gap in the existing literature is the absence of a sustained, jurisprudentially rigorous analysis of judicial activism in the domain of child rights in Bangladesh. Specifically, no existing study has comprehensively examined how the High Court Division and the Appellate Division of the Supreme Court of Bangladesh have used their *suo motu* jurisdiction, writ jurisdiction, and appellate oversight to give substantive content to the Children Act 2013 and the constitutional rights of children. The use of *suo motu* proceedings — by which the court initiates action on its own motion, without a petition from any party — represents a particularly significant dimension of this activism, as it signals an affirmative judicial commitment to child rights that goes beyond passive adjudication of disputes.

Equally neglected is an analysis of the progressive judgments issued by the courts in child rights cases and the extent to which these judgments have created a developing jurisprudence that can guide lower courts, inform executive action, and supplement the statutory framework. The scattered references in the BLAST and ASK reports to High Court interventions are suggestive but not analytically developed. No study has attempted to collect, categorise, and critically assess this judicial output as a coherent body of law.

The theoretical literature on judicial activism in Bangladesh, most notably the work of Hoque, provides a framework but does not apply it to the specific domain of child rights. The international comparative literature on judicial roles in juvenile justice — including the work of Kilkelly and Lansdown does not address the Bangladeshi context. The gap between these two bodies of literature is precisely the space that this thesis occupies.

A secondary but related gap concerns the interaction between the superior courts and the subordinate Shishu Adalats. The existing literature has examined the Shishu Adalats largely in isolation, without adequately tracing the extent to which High Court guidance — delivered through appellate decisions, revision proceedings, and *suo motu* directions — has shaped or could shape the practice of these specialised courts. This vertical dimension of the judicial system in child rights cases is analytically significant and has not been adequately theorised.

In sum, the gap addressed by this thesis is not merely empirical but conceptual: there is a need for an analytical framework that conceptualises the judiciary not merely as a passive implementor of legislative will but as an active co-creator of the child rights regime in Bangladesh. This thesis fills that gap by documenting the instances of judicial activism in this domain, analysing the jurisprudential reasoning that underpins them, and assessing their practical significance for the rights of children in conflict with the law.

2.6 Concluding Remarks

The literature reviewed in this chapter makes a substantial collective contribution to the understanding of child rights and juvenile justice in Bangladesh. It has established the normative architecture of the Children Act 2013, documented the persistent failures of implementation, calibrated Bangladesh's obligations against international standards, and begun tentatively to acknowledge the role of the courts as institutional actors in the child rights landscape. This thesis acknowledges the foundational importance of these contributions and builds upon them.

At the same time, the review has exposed a critical lacuna that the existing scholarship has left unaddressed. The literature has not yet produced a comprehensive, jurisprudentially grounded account of how judicial activism expressed through suo motu proceedings, writ petitions, and progressive interpretation has served as a mechanism for the enforcement and expansion of child rights under the Children Act 2013 and the Constitution of Bangladesh. This silence is surprising, given the significance of the courts as constitutional institutions in any rights-based legal system, and given the particular importance of judicial intervention in contexts where legislative and executive action has proven inadequate.

This thesis directly addresses that silence. By systematically examining the judgments, directions, and orders issued by the superior courts in child rights cases, and by situating this judicial output within the theoretical framework of judicial activism developed in the comparative literature, the thesis aims to produce an account of the Bangladesh judiciary's contribution to the child rights regime that is both empirically grounded and analytically rigorous. In doing so, it aspires to make a contribution not only to the academic literature on Bangladesh's legal system but also to the broader interdisciplinary conversation on the role of courts in the protection of children's rights in developing constitutional democracies.

The following chapter sets out the methodology employed by this thesis in collecting and analysing the relevant judicial and documentary materials, and it explains the theoretical framework within which the findings are interpreted.

CHAPTER 3

LEGAL AND INSTITUTIONAL FRAMEWORK OF CHILD RIGHTS

3.1 International Legal Framework for Child Rights

The protection of child rights under international law is governed by a comprehensive body of treaties, conventions, rules, and guidelines developed under the auspices of the United Nations. These instruments collectively establish minimum standards for the treatment of children in general and specifically in the context of juvenile justice. Bangladesh, as a State Party to the principal international instruments, is legally bound by these obligations, which also serve as interpretive guides for domestic courts.

3.1.1 Nations Convention on the Rights of the Child (UNCRC), 1989

The UNCRC comprises 54 articles and two Optional Protocols dealing with the sale of children, child prostitution and child pornography, and the involvement of children in armed conflict. The Convention defines a child as every human being below the age of eighteen years, unless under the law applicable to that child, majority is attained earlier (Article 1). This definition is foundational and informs the scope of protection offered across the Convention. The Committee on the Rights of the Child, established under Article 43 of the UNCRC, has issued General Comment No. 10 (2007) on children's rights in juvenile justice,

which provides authoritative guidance on the implementation of Articles 37 and 40. This General Comment emphasises that a juvenile justice system must be guided by the principle of the best interests of the child and that deprivation of liberty must remain a last resort. In assessing the performance of the Children's Courts of Bangladesh under the Children Act, 2013, the standards articulated in the UNCRC and General Comment No. 10 serve as the primary international benchmark.

3.1.2 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)² , 1985

The Beijing Rules were the first international instrument to deal comprehensively with juvenile justice administration. They set out minimum standards covering the entire spectrum of the juvenile justice process, from initial contact with law enforcement to post-dispositional treatment.

From the perspective of this thesis, the Beijing Rules are directly relevant to evaluating the functioning of the Children's Courts under the Children Act, 2013. The Act's provisions on diversion, bail, remand, and sentencing must be assessed against the minimum standards prescribed by the Beijing Rules to determine whether Bangladesh's juvenile justice system meets internationally accepted standards.

3.1.3 United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)³, 1990

From a legislative perspective, the Riyadh Guidelines call upon State Parties to develop national policies, strategies, and programmes that address the root causes of juvenile delinquency, including poverty, unemployment, discrimination, and lack of educational opportunities. They also advocate for the involvement of young persons themselves in designing and implementing such programmes, reflecting the participatory dimension of child rights.

While the primary focus of this thesis is on the judicial protection of child rights under the Children Act, 2013, the Riyadh Guidelines provide an important complementary framework. The effectiveness of the Children's Courts cannot be assessed in isolation; the upstream prevention mechanisms addressed by the Riyadh Guidelines are equally critical to ensuring

² UNGA Res 40/33 (29 November 1985) UN Doc A/RES/40/33

³ UNGA Res 45/112 (14 December 1990) UN Doc A/RES/45/112

that children do not unnecessarily enter the formal justice system in the first place. The thesis acknowledges this broader preventive context, even as its central inquiry focuses on the adjudicative dimension.

3.1.4 United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules), 1990⁴

The Havana Rules affirm that the deprivation of a juvenile's liberty should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases.

Rule 17 provides that the deprivation of liberty shall be effected in conditions and circumstances which ensure respect for the human rights of juveniles. The Rules prescribe detailed standards relating to the physical environment of detention facilities, healthcare, education, vocational training, recreation, contact with family, and the prohibition of all forms of physical punishment.

Of particular relevance to the Bangladeshi context is Rule 27, which requires that juveniles held in facilities should receive care, protection, and all necessary individual assistance — social, educational, vocational, psychological, medical and physical — that they may require in view of their age, sex and personality. These requirements impose significant obligations on State Parties with respect to both the infrastructure and staffing of juvenile detention facilities.

3.2 Legal Framework for Child Protection in Bangladesh

3.2.1 The Constitution of the People's Republic of Bangladesh

Article 28(4) of the Constitution specifically authorises the state to make special provision in favour of women and children. This provision serves as the constitutional basis for child-specific legislation such as the Children Act, 2013 and the Women and Children Repression Prevention Act, 2000, as well as for affirmative measures and preferential treatment of children in legal and administrative proceedings. It provides explicit constitutional sanction for differential treatment of children as a protected category.

Articles 31 and 32 of the Constitution guarantee respectively the right to protection of law and the right to life and personal liberty. Article 31 provides that every citizen has the right to enjoy the protection of the law and to be treated in accordance with law. Article 32 provides that no person shall be deprived of life or personal liberty save in accordance with law. These

⁴ UNGA Res 45/113 (Adopted 14 December 1990)

provisions have been interpreted by the Supreme Court of Bangladesh to encompass a broad range of rights, including the right to a fair trial, the right to legal representation, and the right to be free from torture, arbitrary detention, and inhuman treatment.

In the context of child rights, Articles 31 and 32 impose on the state an affirmative obligation to ensure that children have access to justice and that their physical and psychological integrity is protected at every stage of legal proceedings. The special legal protections afforded to children under the Children Act, 2013 — including the presumption in favour of bail, the prohibition on death sentences for child offenders, and the requirement for child-friendly court procedures — are all expressions of the constitutional rights guaranteed under Articles 31 and 32.

3.2.2 The Women and Children Repression Prevention Act, 2000

In the 2026 amendment to the Women and Children Repression Prevention Act, 2000, an important step has been taken in section 26A⁵ to form a separate “Child Violence Prevention Tribunal” only for children who are victims of rape.

According to this amendment, the Child Violence Prevention Tribunal will be constituted and function in the following manner :

The Government may form one or more tribunals in every district and metropolitan area for the purpose of trying the crime of child rape under this Act and such tribunal shall be called the Child Violence Prevention Tribunal. The Tribunal shall consist of one judge and the Government shall appoint the judge of the said Tribunal from among the District and Sessions Judges.

It is a very bold decision for the government to take the groundbreaking step of establishing this independent Child Violence Prevention Tribunal, despite the myriad of judicial limitations. We will see clearly in the Judicial Activism chapter that this tribunal is not functioning well in some recent child rape cases.

3.2.3 The Children Act, 2013

The Children Act, 2013 (Act No. XXIV of 2013) is the central piece of legislation governing the rights, protection, and welfare of children in Bangladesh. It replaced the earlier Children Act, 1974, which had become outdated and inconsistent with the country’s international obligations under the UNCRC and the Beijing Rules.

Key provisions of the Act include: Section 33, which requires the best interests of the child to be the primary consideration in all proceedings; Section 37, which provides for the diversion

⁵ Section 26A, The Women and Children Repression Prevention (Amendment) Act, 2026

of cases away from formal criminal proceedings where appropriate; Sections 44 to 52, which address bail and remand procedures with specific protections for children, including a presumption in favour of bail; Section 63, which prohibits the death penalty or life imprisonment for child offenders; and Sections 79 to 88, which deal with the establishment and functioning of Certified Institutes and approved institutions for the care and rehabilitation of children.

The Children Act, 2013 is the primary subject of analysis throughout this thesis. Its effectiveness in ensuring judicial protection of child rights — through the establishment of dedicated courts, child-sensitive procedures, restorative and rehabilitative approaches to sentencing, and the protection of children at every stage of the justice process — forms the central inquiry of this research.

3.2.4 The Guardians and Wards Act, 1890

Section 7 of this Act states that the court shall appoint a guardian for a minor (child) if the minor has no parents, the parents are incompetent, or there is a risk that the welfare of the child will be harmed.

The Act has limited but important relevance to child protection jurisprudence in Bangladesh. In cases of child abuse or neglect within the family, courts have exercised their jurisdiction under this Act to appoint suitable guardians for children whose parental custody poses a risk to their welfare. Family law courts in Bangladesh regularly encounter cases at the intersection of guardianship law and child protection, making the Guardians and Wards Act a significant, if subsidiary, component of the legal framework for child rights.

3.2.5 The Domestic Violence (Prevention and Protection) Act, 2010

The Domestic Violence (Prevention and Protection) Act, 2010 (Act No. LVII of 2010) was enacted to provide protection to victims of domestic violence, including physical, sexual, psychological, and economic abuse occurring within the domestic sphere. The Act is particularly significant for child rights because children frequently witness or are themselves victims of domestic violence perpetrated within the home.

From a child rights perspective, the Act is significant in recognising the home as a site of potential harm for children and providing a legal mechanism for judicial intervention in the private sphere. However, implementation challenges persist, including insufficient numbers of protection officers, limited awareness among victims and communities, and under-reporting due to social stigma and economic dependence.

3.2.6 The Prevention and Suppression of Human Trafficking Act, 2012

The Prevention and Suppression of Human Trafficking Act, 2012 (Act No. III of 2012) addresses the serious problem of human trafficking, which disproportionately affects women and children. Bangladesh is both a source and transit country for trafficking victims, who are primarily exploited for sexual exploitation and forced labour.

For children, trafficking represents one of the most severe forms of exploitation, stripping them of their liberty, dignity, and developmental potential. The Act's provisions, read alongside the UNCRC's prohibitions on all forms of exploitation under Article 34 and 35, create a comprehensive normative framework for prosecuting traffickers and protecting child victims. The effectiveness of this framework in practice, particularly the rehabilitation and reintegration of trafficked children, remains an area requiring sustained judicial attention.

3.2.7 The Labour Act, 2006

The Bangladesh Labour Act, 2006 (Act No. XLII of 2006) is the principal legislation governing employment conditions, labour standards, and industrial relations in Bangladesh. Of particular significance for child rights are the Act's provisions on child labour, which establish minimum age requirements for employment and prohibit children from working in hazardous occupations.

Section 34 of the Act prohibits the employment of children below the age of fourteen years in any work or occupation. Section 39 prohibits the employment of adolescents — defined as persons between fourteen and eighteen years — in any work that is likely to cause injury to their health, is morally harmful, or is dangerous in nature. The Act empowers labour inspectors to investigate violations and initiate prosecution against employers who employ child labour in contravention of its provisions.

Bangladesh has made significant progress in reducing child labour over the past two decades, partly due to the legal framework established by the Labour Act and complementary international assistance programmes. However, child labour remains prevalent in informal sectors, domestic work, agriculture, and small-scale industries, which are difficult to monitor and regulate. The judicial enforcement of child labour prohibitions — through both the labour courts and the Children's Courts — is an important dimension of the broader protection of child rights.

3.2.8 The Bangladesh Labour Rules, 2015

The Bangladesh Labour Rules, 2015 were promulgated under the authority of the Bangladesh Labour Act, 2006 to provide detailed procedural and regulatory guidance for the implementation of the Act's provisions. With respect to child and adolescent labour, the Rules specify the conditions under which adolescents may be employed, including requirements for

medical fitness certificates, limitations on working hours, and prohibitions on night work for persons under eighteen years.

The Labour Rules complement the substantive protections afforded by the Labour Act and together constitute a significant element of the legal framework for child protection in the workplace. Their effective implementation requires close cooperation between the Department of Labour, the Directorate of Labour, child rights organisations, and the judiciary.

3.2.9 The Child Marriage Restraint Act, 2017

The Child Marriage Restraint Act, 2017 (Act No. VI of 2017) replaced the Child Marriage Restraint Act, 1929 and was intended to modernise and strengthen the legal framework for preventing child marriage in Bangladesh. The Act prescribes minimum ages for marriage as eighteen years for females and twenty-one years for males, and provides for penalties against persons who perform, permit, or participate in a child marriage.

Child marriage has profound and far-reaching consequences for children, particularly girls, including deprivation of education, heightened risk of early pregnancy and maternal mortality, increased vulnerability to domestic violence, and long-term economic marginalisation. From the perspective of child rights under the UNCRC, child marriage constitutes a direct violation of the rights to education, health, protection from exploitation, and full development of the child's potential. Judicial enforcement of the Child Marriage Restraint Act, including through public interest litigation and suo motu action, represents an important area of judicial protection of child rights.

3.2.10 The Pornography Control Act, 2012

The Pornography Control Act, 2012 (Act No. XIV of 2012) was enacted to suppress the production, distribution, and consumption of pornographic material in Bangladesh, with particular attention to child pornography.

The Act is significant from a child rights perspective because child sexual exploitation material (CSEM) involves the direct abuse of children and inflicts severe and lasting harm on victims. Section 8 of the Act prescribes enhanced penalties for offences involving children, including the production, distribution, and possession of child pornographic material.

3.2.11 The Disability Rights and Protection of Persons with Disabilities Act, 2013

The Disability Rights and Protection of Persons with Disabilities Act, 2013 (Act No. XXXIX of 2013) establishes a comprehensive framework for the protection and promotion of the rights of persons with disabilities in Bangladesh. Children with disabilities constitute a

particularly vulnerable group requiring special attention, as they face heightened risks of discrimination, exclusion, abuse, and neglect.

The Act requires the state to take measures to ensure that children with disabilities have access to inclusive education, healthcare, social protection, and support services. It establishes a National Coordination Committee and district-level committees to oversee the implementation of disability rights protections. Section 16 specifically addresses the rights of children with disabilities, including the right to education in an inclusive environment and the right to protection from all forms of violence and exploitation.

3.2.12 The Torture and Custodial Death (Prevention) Act, 2013

The Torture and Custodial Death (Prevention) Act, 2013 (Act No. L of 2013) was enacted to give domestic effect to the obligations of Bangladesh under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Bangladesh acceded in 1998. The Act criminalises torture and custodial death and provides for investigation and prosecution of public servants responsible for such acts.

The judicial enforcement of the Torture Act in cases involving child victims requires sensitivity to the particular vulnerabilities of children and the challenges they face in reporting abuse by custodial authorities. The courts have an important role in creating accountability for custodial abuse through vigorous application of the Act and appropriate remedies for victims.

3.2.13 The Acid Crime Prevention Act, 2002

The Acid Crime Prevention Act, 2002 (Act No. II of 2002) was enacted in response to the alarming incidence of acid attacks in Bangladesh, which disproportionately targeted women and girls. The Act prescribes severe penalties for the commission of acid attacks, including death penalty in cases resulting in death, and life imprisonment or long-term imprisonment for other offences. It establishes special tribunals for the speedy trial of acid crime cases. Children are frequently victims of acid attacks, whether as direct targets or as incidental victims of attacks on family members. Girls are particularly vulnerable, often targeted by rejected suitors or as a result of land or family disputes. The disfigurement and disability caused by acid attacks inflict profound and lasting physical, psychological, and social harm on child victims, fundamentally altering their life trajectories.

The judiciary plays a critical role in enforcing the Acid Crime Prevention Act and ensuring that child victims receive appropriate support and rehabilitation. The courts must also ensure that child witnesses in acid crime cases are protected from intimidation and secondary victimisation during legal proceedings.

3.2.14 The Children Rules, 2018

The Children Rules, 2018 were framed by the government under the authority of Section 107 of the Children Act, 2013 and came into force on 25 March 2019. The Rules operationalise the procedural requirements of the Children Act and provide detailed guidance on the functioning of Children's Courts, the duties of Probation Officers, the operation of certified institutes, and the procedures for handling children in conflict with the law and children in need of care and protection.

The Rules specify the physical and administrative requirements for Children's Courts, including provisions for a child-friendly environment, separate waiting areas for children and adults, and procedures to prevent contact between child accused persons and adult offenders. They also detail the content and process of social background reports to be prepared by Probation Officers, the procedures for diversion and mediation, and the conditions under which children may be placed in certified institutes.

3.3 Institutional Framework for Child Protection in Bangladesh

In Bangladesh, several institutions work to protect children's rights—at the judicial, executive, and administrative levels. The important institutions are briefly highlighted below:

3.3.1 Children's Court

According to Section 16(2) of the Children's Act 2013, the Women and Children's Repression Prevention Tribunal is considered a children's court. This court is obliged to follow a child-friendly environment and procedure in the disposal of child-related cases.

The Children's Court conducts trials of child-related crimes and children in contact with the law in a child-friendly environment in an expeditious and fair manner.

3.3.2 Women and Children Repression Prevention Tribunal

This special tribunal, formed under the Women and Children's Repression Prevention Act 2000, tries crimes such as rape, sexual abuse, trafficking, etc. At the same time, it also performs the duties of a children's court under the Children's Act.

3.3.3 Supreme Court of Bangladesh (High Court Division)

The High Court Division has been playing an active role in the violation of child rights through writ jurisdiction and suo motu jurisdiction under Article 102 of the Constitution, especially in cases of street children, child labor and institutional abuse.

Moreover, the High Court Division functions as an appeal, review and revision court against the verdicts of the Child-related Tribunals under the Children Act, 2013 and the Women and Children Repression Prevention Act, 2000.

3.3.4 House of the Nation (Jatiya Sangsad)

The Parliament enacts laws under Article 80 of the Constitution. The National Parliament enacts, amends and provides necessary policy guidelines on child rights and child protection. It also supervises the activities of the concerned ministries through the Parliamentary Standing Committee.

3.3.5 Ministry of Law, Justice and Parliamentary Affairs

This ministry plays an important role in drafting and amending child-related laws, law reforms and coordination of judicial administration.

3.3.6 Department of Social Services - DSS

This department is responsible for running Probation Officers, Child Development Centres, Orphan and Distressed Child Development Centres, Child Rehabilitation Centres and Safe Homes under the Child Act 2013. It plays a central role in the rehabilitation of children involved in conflict with the law. It provides rehabilitation, protection, case management and various social services to children at risk and in contact with the law.

3.3.7 National Child Welfare Board and District Child Welfare Boards

These boards implement child protection policies, coordinate between various agencies of various social service departments and supervise child welfare activities. This board, formed at the national, district, and upazila levels, oversees and coordinates the implementation of the child policy, although there is criticism that its effectiveness is limited in practice.

3.3.8 Bangladesh Police

The Bangladesh Police investigates child-related crimes, assists the courts in preparing investigation reports, enforces the law in a child-friendly environment, and ensures the safety of child victims.

3.3.9 Ministry of Women and Child Affairs

It is the lead government ministry for child protection and a central policy-making institution. It is responsible for child welfare, child-related legislation, implementation of child rights, formulation of national policies, implementation of national action plans and international commitments (such as the UNCRC) and is responsible for managing related activities.

3.3.10 Bangladesh Police— Women and Child Support Desk

This desk, formed at the police station level, receives complaints of child abuse and assists in initial investigations, although a lack of training and sensitivity is often identified.

3.3.11 Child Affairs Police Officer (CAPO)

Every police station of Bangladesh Police has a child affairs desk as per section 14 of the 'Children Act, 2013'. The officer in charge of this desk, who is of the rank of Sub-Inspector,

is called a Child Affairs Police Officer. If there is a female sub-inspector working in the police station, she is usually given priority for this responsibility

3.3.12 National Human Rights Commission (NHRC)

As an independent statutory body, it has the power to investigate complaints of child rights violations and make recommendations, but its decisions are not binding. It plays a role in monitoring, investigating, making recommendations and raising awareness of violations of children's human rights.

3.3.13 Non-Governmental Organizations (NGOs) and Civil Society

Various organizations including BLAST, BNWLA, Save the Children, UNICEF play a complementary role in the state structure through legal aid, rehabilitation and advocacy for children. These institutions work as an assistant to the government in child protection, research, training and raising public awareness.

3.4 Concluding Remarks

This chapter has mapped the legal and institutional framework within which the judicial protection of child rights in Bangladesh operates. Several important observations emerge from this analysis.

First, at the conceptual level, the evolution from a welfare-based to a rights-based approach to childhood has fundamentally reoriented the relationship between the child, the state, and the law. Children are no longer passive objects of benevolent paternalism; they are active rights-holders entitled to enforceable protections. This conceptual reorientation is reflected in both the international instruments discussed in this chapter and in the domestic legislation of Bangladesh.

Second, Bangladesh's international legal obligations — particularly under the UNCRC, the Beijing Rules, the Riyadh Guidelines, and the Havana Rules — provide a comprehensive and detailed normative framework for juvenile justice and child protection. These obligations are not merely aspirational commitments; they create binding legal duties that must be reflected in legislation, institutional practice, and judicial decision-making. The extent to which Bangladesh's domestic framework gives effect to these obligations is a central concern of this thesis.

Third, the domestic legal framework for child protection in Bangladesh is relatively comprehensive, encompassing legislation on juvenile justice, sexual offences, trafficking, labour, domestic violence, child marriage, disability, and cybercrime. The Children Act, 2013, as the central piece of juvenile justice legislation, represents a significant legislative achievement. However, as this thesis demonstrates, the gap between legislative text and

ground-level implementation remains wide, and the judiciary plays a critical role in bridging that gap through vigorous and child-sensitive adjudication.

Fourth, the institutional framework for child protection, while extensive in its formal design, suffers from significant capacity and coordination deficiencies. Probation Officers are overburdened, certified institutes are understaffed and inadequately resourced, and the Children's Courts lack the physical infrastructure and logistical support to function effectively as child-friendly adjudicative forums. These institutional deficiencies impose very real constraints on what the judiciary can achieve through the legal framework available to it. Finally, the constitutional mandate of Bangladesh — grounded in Articles 15, 28(4), 31, and 32 of the Constitution — provides the ultimate normative authority for the judicial protection of child rights. The judiciary, particularly the Supreme Court, has increasingly used this constitutional mandate to fill gaps in the statutory framework and to hold the executive and legislature accountable for failures in child protection. This judicial activism is both a response to institutional failure and an affirmation of the courts' role as guardians of constitutional rights.

Chapter 4

Judicial Decisions on Child Rights

4.1 Introduction

This chapter presents the role of the Supreme Court of Bangladesh in protecting the rights of children with case references. It discusses the role of the Children and Women's Torture Prevention Tribunal located in every district and session judge's court in Bangladesh, which is considered a children's court, in protecting the rights of children through conducting judicial activities. In this regard, some historical, groundbreaking events and case references

conducted and judgments given by the Women and Children's Torture Prevention Tribunal have been mentioned. It highlights the practical challenges faced by the judiciary in conducting fair trials of crimes committed by children involved in conflict with the law or children who come into contact with the law. It also highlights some of the mistakes made by the judiciary itself that deprive children of justice.

4.2 Jurisdiction and Proceedings of the High Court Division in Child-Related Matters

4.2.1 Under the Children Act, 2013

Section 41 of the Children Act provides for the right to appeal, review, and revision before the High Court Division against the judgment of the Children's Court. It states that: (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an appeal may be made to the High Court Division against any order or judgment passed by the Children's Court under this Act within 60 (sixty) days from the date of such order or judgment. (2) Any order of the Children's Court may be reviewed in the High Court Division. (3) The High Court Division must dispose of such appeal or revision within 60 days.

4.2.2 Under the Women and Children Repression Prevention Act, 2000

According to Section 28 of the Women and Children Repression Prevention Act, 2000

– The party aggrieved by the order, judgment or sentence passed by the Tribunal may appeal to the High Court Division within thirty (30) days from the date of the said order, judgment or sentence.

According to Section 29 of the said Act –

If any Tribunal awards death sentence under this Act, the records of the relevant case shall be immediately sent to the High Court Division in accordance with the provisions of Section 374 of the Code of Criminal Procedure and the death sentence shall not be executed without the approval of the said Division.

4.3 Jurisdiction and Proceedings of the Child-Related Tribunals

4.3.1 Women and Children Repression Prevention Tribunal

According to Section 16(2) of the Children Act, 2013, every Women and Children Repression Prevention Tribunal constituted under the Women and Children Repression Prevention Act, 2000 shall be deemed to be a Children's Court within its jurisdiction.

Section 26 of Women and Children Repression Prevention Act, 2000 describing the provisions relating to the formation of Women and Children Repression Prevention Tribunal in following manner:

- (1) There shall be one tribunal in each district headquarters for the trial of offences under this Act and if necessary, the Government may also form more than one tribunal in that district; such tribunal shall be called the Women and Children Oppression Prevention Tribunal.
- (2) The Tribunal shall consist of one judge and the Government shall appoint the judges of the said tribunal from among the District and Sessions Judges.
- (3) The Government may, if necessary, appoint any District and Sessions Judge as a judge of the Tribunal in addition to his duties.
- (4) This section, the term District Judge and Sessions Judge also includes Additional District and Sessions Judge.

Section 20 of the Women and Children Repression Prevention Act, 2000 provides for the trial of cases filed in the Women and Children Repression Prevention Tribunal –

- (1) Any trial under this Act shall be triable in the Women and Children Repression Prevention Tribunal constituted under section 26 or the Child Violence Prevention Tribunal constituted under section 26A.
- (2) Once the hearing of the case begins in the Tribunal, it shall continue continuously on every working day until it is concluded.
- (3) The Tribunal shall complete the trial within one hundred and eighty working days from the date of receipt of the case for trial.
- (3A) Notwithstanding anything contained in sub-section (3), the Tribunal shall complete the trial of a case related to rape under section 9 within ninety working days from the date of framing of the charge.

4.3.2 Children Violence Prevention Tribunal

In the 2026 amendment to the Women and Children Repression Prevention Act, 2000, a good step has been taken in section 26A to form a separate “Child Violence Prevention Tribunal” to specifically handle child rape and related violence cases.

According to the amendment of section 26A, the Children Violence Prevention Tribunal will be constituted and function in the following manner :

- (1) Government may form one or more tribunals in every district and metropolitan area for the purpose of trying the crime of child rape under this Act and such tribunal shall be called the Children Violence Prevention Tribunal.

(2)The Tribunal shall consist of one judge and the Government shall appoint the judge of the said Tribunal from among the District and Sessions Judges.

(3)The Government may appoint any District and Sessions Judge as a judge of the Tribunal in addition to his duties. The term District and Sessions Judge includes Additional District and Sessions Judge.

(4)The Children Violence Prevention Tribunal shall follow the procedure of the Women and Children Repression Prevention Tribunal constituted under this Act with necessary adaptations.

(5) Any offence under this Act or any other law is related to the offence of child rape, both the said offences shall be tried by the Children Violence Prevention Tribunal.

It is a very bold decision for the government to take the step of establishing this independent Children Violence Prevention Tribunal, despite the myriad of judicial limitations.

According to Section 26A of the Women and Children Repression Prevention Act, 2000, provides that the Children Violence Prevention Tribunal shall follow the procedure of the Women and Children Repression Prevention Tribunal constituted under this Act with necessary adaptations.

4.4 Remarkable Case Analysis

4.4.1 Roushan Mondal Case (State v. Roushan Mondal)⁶

I) Case Facts

On the night of 15 October 1999, an 8-year-old girl named Rikta Khatun went missing. Her body was recovered from a turmeric field near her house the next morning. The missing girl's father filed a First Information Report (FIR), but no suspect was identified. As part of the investigation, the police arrested Md. Rawshan Mandal, who was only 15 years and 21 days old at the time. A man named Kamal handed her over to the authorities over a previous land dispute, but Kamal was not questioned. This was recorded three days after the arrest after illegal detention and police torture, after which Roushan, fearing police torture, confessed to a magistrate. Later, the police filed a charge sheet under Section 6(2) of the Women and Children Repression Prevention Act, 1995. The Sessions Judge fixed the age of Roushan at 15 years and 21 days.

⁶ Farah Arifin, thecasesummary.com, 12 January 2026 ; 26BCR (2006) (HCD)275 ; 26 BLD (HCD) 549, 553; 59 DLR (2007) 72, 76

As a result, she transferred the case to the Women and Children Repression Prevention Tribunal, where the then-in-charge judge framed charges under the pretext of functioning as a juvenile court.

Although she was formally determined to be a juvenile under Section 66 of the Children Act, 1974, the Women and Children Repression Prevention Tribunal wrongly tried her under a special law instead of following juvenile trial procedures.

(II) Legal Issues:

1. Whether the trial and sentence passed by the Women and Child Atrocities Prevention Tribunal, despite the accused being a minor, was lawful, without following the mandatory procedure of the Children Act, 1974?
2. Whether the conviction and death sentence can be upheld even though the confessional statement was involuntary and there was no eyewitness or reliable circumstantial evidence?
3. Why was the child sentenced to death despite the fact that the innocence of the child was known to the Tribunal, despite the fact that it did not have the power and despite the fact that it was not proven beyond a reasonable doubt?
4. Whether the Tribunal violated the provisions of the Children Act, 2013 by awarding the death sentence to the child?

(III) Court Decision

The Trial Court (1999)

The Sessions Judge fixed the age of Roushan as 15 years and 21 days and transferred the case to the Women and Children Atrocities Prevention Tribunal. Although he was formally a child under Section 66 of the Children Act, 1974, the Tribunal wrongly tried him under the Special Act instead of following the juvenile justice system.

The prosecution had no eyewitnesses at the trial and relied only on a confessional statement, which was recorded three days after his arrest, after illegal detention and police torture.

Eleven witnesses were examined for the prosecution, but the defence did not present any witnesses. Relying mainly on questionable confessions and weak circumstantial evidence, the Tribunal convicted the boy under Section 6(2) of the Women and Children Atrocities Prevention Act, 1995 and awarded him death sentence.

The case was registered under Section 342 of the Code of Criminal Procedure, 1898, the Children Act, It is conducted in accordance with Section 66 of the Children Act, 1974⁷ and Section 6(2) of the Women and Children (Prevention of Atrocities on Women and Children)

⁷ Subsequently repealed by the Children Act, 2013

Act, 1995 (subsequently replaced by the Women and Children (Prevention of Atrocities on Women and Children) Act, 2000).

The High Court (2006)

The High Court Division held that the entire trial was conducted without jurisdiction. Since the accused was found to be a minor below the age of 16 years, the case should have been tried only in the Juvenile Court under the Children Act, 1974. The Women and Child Atrocities Prevention Tribunal had no jurisdiction to try a child, and could not act as a Juvenile Court. At the same time, the High Court Division held that the Juvenile Court could not award death penalty. As a result, the conviction and sentence became legally void. The Court observed that in the main trial, 11 witnesses were examined for the prosecution, but the prosecution did not present any witness, which indicated that the prosecution considered the prosecution's case weak. It was clear from the statement of the accused under Section 342 of the Code of Examination and Criminal Procedure, 1898 that he repeatedly claimed his innocence. The Court further observed that the confessional statement was involuntary and was obtained after illegal detention and police torture, and therefore cannot be relied upon. Most importantly, the victim's father never mentioned Roushan as an accused or suspect in the complaint or in his testimony; rather, he stated that the accused had no involvement in the murder of his daughter. This further weakens the prosecution's case. Since no eyewitness or circumstantial evidence could link the accused to the crime, the prosecution failed to prove his guilt. The court observed that it would be pointless to send the case back for a retrial, as no new admissible evidence was likely to be found. Ultimately, the High Court Division allowed the appeal, upholding the conviction and setting aside the death sentence. The court acquitted Roushan of all charges and ordered his immediate release.

(IV) Reasoning

Jurisdictional Error

The court first observed that the age of Roushan Mandal at the time of the commission of the crime was only 15 years and 21 days, as determined by the Sessions Judge and officially recognized under Section 66 of the Children Act, 1974. According to this age, he clearly came within the definition of a "child". According to the Children Act, a child can be tried only in a Juvenile Court and not in a Special Tribunal. Although the Women and Child Repression Prevention Tribunal merely declared itself to be "acting as a juvenile court" and framed charges, it did not in fact follow the procedural safeguards required by the Children Act. As a result, the court held that the entire trial was conducted in a coram non iudice i.e. without jurisdiction.

Evidential Errors

The prosecution had no eyewitnesses; the entire case rested on a single confessional statement. This confession was recorded three days after the arrest and appears to be the result of illegal detention and police torture, which makes it arbitrary and unreliable. The accused repeatedly claimed innocence in the statement taken under Section 342 of the Code of Criminal Procedure.

Most importantly, the victim's father — who is the complainant and the main witness — never identified Roushan as a suspect, but rather clearly stated that the accused had no involvement in the murder. Kamal, who had handed over Roushan to the police in connection with a previous land dispute, was never questioned, although there was evidence of previous enmity with him — this strongly suggests the possibility of false implication. For all these reasons, the court concluded that the prosecution had completely failed to prove guilt beyond reasonable doubt.

Decision Not To Remand For Retrial

Usually, in cases of jurisdictional error, the case is remanded for retrial to the appropriate forum (juvenile court). But the court took an exceptional decision in this case, stating that since the original evidence has already been proven unreliable and weak and there is no realistic possibility of obtaining any new admissible evidence, remanding the case for retrial would be a futile process and would be contrary to justice for a child who has been detained for a long time. Therefore, the concerned bench of the High Court Division ordered direct acquittal.

4.4.2 State v. Secretary, Ministry of Law, Justice & Parliamentary Affairs and Others

Specialty of the Case : This is a landmark case where High Court Division applied its “Suo Motu” rule against the Government.

(I) Case Facts

A 7 year-old girl was allegedly raped by her neighbour and distant relative. The police recorded the girl's case and sent her to the Magistrate Court. The Magistrate ordered the girl to be kept in a safe home managed by the Department of Social Welfare. The girl's parents were denied access to the safe home. After learning of the case from a news report, the High Court issued a "Suo Motu Rule" to the government (the Secretary, Ministry of Law, Justice & Parliamentary Affairs and other responsible departments), forcing them to explain whether and why the girl needed to be held in the safe home.

(II) Legal Issues

(1) Was it legal to separate the child victim from his parents and place him in state custody?

(2) The child's parents were not allowed to meet him, on what legal basis did the magistrate give this decision?

(III) Court Decision

The court ruled that the magistrate had acted unlawfully by ordering the child to be placed in state custody. The court also made several important recommendations for the protection of child rights. Notable among these were—

- Establishment of special courts for children in every district of the country;
- Arrangements for special training for police officers and other officials of the criminal justice system who work with children;
- Training for lawyers and judges on the Convention on the Rights of the Child (CRC) and other international human rights instruments;
- Enactment of new laws or amendments to existing laws to implement Bangladesh's obligations under international treaties and charters, especially the CRC.

(IV) Reasoning

Custody As a Measure of Last Resort

The court said that the custody of a child victim under section 58 of the Children Act, 1974 (now repealed) should be a measure of last resort. If the parents or legal guardians of the child are fit, capable and can ensure proper care, control and protection of the child, then the custody of the child should be given to them. In such a situation, the other options mentioned in section 58 of the 1974 Act—such as placing the child in a certified institution, a safe home or in the custody of any other relative or suitable person—need not be considered.

Best Interests of the Child and the Right to Be Heard

The court further said that the magistrate's order was against the best interests of the child and was also a violation of the provisions of the CRC. The court has a constitutional and moral duty to follow the provisions of the CRC unless it is inconsistent with the domestic law of Bangladesh.

4.4.3 The Rajon Murder Case (State v. Qamrul Islam & Others)

(I) Case Facts

On July 8, 2015, Rajon was falsely accused of attempting to steal a rickshaw van. A mob, led by Qamrul Islam, tied him to a pole in the Kumargaon Bus Stand area and beat him

mercilessly for nearly 28 minutes. One of them recorded a video of the horrific incident and shared it on Facebook. The 28-minute video footage went viral on social media and shows the main accused, Qamrul Islam, hitting the boy on the leg, ankle, shoulder and head with a stick. Rajon sustained 64 injury marks and suffered a fatal brain hemorrhage. The attackers filmed the torture and shared the video on social media, where it went viral and sparked national outrage.

(II) Legal Issues

(1) That is, did the accused intentionally kill the victim, child Rajan, through brutal torture, which is a punishable offense under the Women and Children Repression Prevention Act, 2000 and the Penal Code, 1860?

(2) That is, has the state been able to prove the guilt of the accused beyond a reasonable doubt through eyewitness testimony, autopsy reports, video footage circulated on social media, and other evidence?

(III) Court Decision

Trial Court (2015):

The Sylhet Metropolitan Sessions Judge's Court indicted 13 individuals. Prime suspect Qamrul Islam—who fled to Saudi Arabia immediately after the murder but was detained by expatriates and extradited—was one of four men sentenced⁸ to death. Four others received various prison terms, and three were acquitted.

High Court (2017):

Following appeals, the High Court upheld the death penalties of four primary perpetrators named Kamrul Islam, Zakir Hossain alias Pavel, Saddique Ahmed alias Boro Moyna, and Taz Uddin alias Badal.

(IV) Reasoning

Admissibility of Video Evidence

According to Sections 65A and 65B of the Evidence Act, 1872, video footage is a strong digital record and is admissible as evidence of an incident. According to this legal provision,

⁸ Rajon killing: HC upholds death for Quamrul, 3 others' The Daily Star (11 April 2017) <https://www.thedailystar.net> accessed 26 June 2026.

since the identity of the accused and their active participation in the video of Rajan being tortured on Facebook were clearly evident, the court accepted it as reliable evidence along with other evidence. Moreover, the court considered the eyewitness testimony, medical report (post-mortem report) and other circumstantial evidence together and accepted the guilt of the accused as proven. Therefore, the court directly sentenced the four accused to death.

Intention & knowledge of killing

The brutality of torturing Rajan indicates the intention to kill or the knowledge of killing, which can result in death. Which is a direct manifestation of the criminal mind of the accused. And according to Section 300 of the Penal Code, 1860, it will be considered as murder. And according to Section 302 of the Penal Code, the maximum punishment for murder is death.

Proving beyond reasonable doubt

The prosecution has been able to prove the crime beyond reasonable doubt. Such brutal violence against a child is a gross violation of child rights. Considering the brutality of the incident, the court considered the death penalty as an appropriate punishment for the main culprits and awarded the said punishment.

4.4.4 Rakib Murder Case (State v. Sharif & Others)

(I) Case Facts

On August 3, 2015, in the Tutpara area of Khulna city, 12-year-old Rakib was brutally tortured by his former employer Sharif and his associates when he demanded unpaid wages from his former workplace. At one stage of the torture, an air compressor tube was inserted into Rakib's body and high-pressure air was injected, causing severe damage to his internal organs. He died on the same day after being taken to the hospital in a seriously injured condition. This brutal incident created intense anger across the country.

(II) Legal Issues

(I) Did the accused intentionally kill Rakib through brutal torture, which is a punishable offence under the Prevention of Atrocities on Women and Children Act, 2000 and the Penal Code, 1860?

(II) Has the prosecution been able to prove the guilt of the accused beyond reasonable doubt through testimony, autopsy reports, medical evidence and other circumstantial evidence?

(III) Court Decision

Trial Court (2015)

The Khulna Women and Children Repression Prevention Tribunal sentenced the accused Sharif to death and his accomplice Rahim to life imprisonment. Both were also fined.

High Court (2017)

The High Court upheld the trial court's verdict on appeal and said that the brutal torture inflicted on the child Rakib was against the fundamental principles of humanity and law.

(IV) Reasoning

Medical and Scientific Evidence

The autopsy report proved that the high-pressure air pressure caused severe damage to Rakib's internal organs and that is why he died. The court accepted the medical report as reliable scientific evidence. It was accepted by the court under Section 45 of the Evidence Act, 1872.

Intention and Knowledge

The court held that injecting high pressure air into the body of a child through an air compressor is an act, the natural and probable result of which is death. Therefore, the accused had the intention to kill or at least the knowledge that death would occur. Therefore, it is a murder under Section 300 of the Penal Code, 1860 and a capital offence under Section 302.

Proof Beyond Reasonable Doubt

The court decided that the prosecution was able to prove the guilt of the accused beyond reasonable doubt based on direct testimony, medical reports, evidence collected during the investigation, and other circumstantial evidence.

4.4.5 Ramisa Murder Case (State v. Sohel Rana & Others)

(I) Case Facts

On May 19, 2026, a second-grade schoolgirl, 8-year-old Ramisa Akhter, was raped and murdered by a murderer in Pallabi, Mirpur, Dhaka. The deceased Ramisa Akhter was a second-grade student of Pallabi's 'Popular Model High School'. The incident took place in an apartment flat in Section-11 of Pallabi.

Ramisa's family and the accused Sohel Rana lived in the same building in the same flat. The child was supposed to go to school with her elder sister at around 10:30 in the morning. Suddenly, she could not be found. Her mother saw a shoe belonging to the child lying outside the door of the next-door flat. Then she knocked on the door of the next-door flat. The door, which was locked from the inside, was not opening at that time. Despite knocking for a long time, the door did not open. This further increased suspicion. Later, the matter was reported to the police. The police came and broke the door and entered and found the child's body. There, Ramisa's headless body was found on the bedroom floor and her severed head was found in the toilet bucket.

(II) Legal Issues

(I) Did the accused rape and murder the child Ramisa and in what condition was the child's body and head found, which is a punishable offense under the Prevention of Atrocities on Women and Children Act, 2000 and the Penal Code, 1860?

(II) Has the state been able to prove the guilt of the accused beyond reasonable doubt through testimony, autopsy report, medical evidence and other circumstantial evidence?

(III) Court Decision

Trial Court (2026)

On June 7, 2026, Judge Masrur Salekin of the Metropolitan Child Violence Prevention Tribunal in Dhaka announced this controversial verdict. The main accused, Sohel Rana, was sentenced to death for murder and fined Tk 5 lakh. The second accused, Swapna Akhter (26) (wife of the main accused), was sentenced to death and fined Tk 2 lakh for aiding and abetting in the crime of murder. The trial and verdict were completed in a record time of just 19 days after the crime was committed.

High Court (2026)

After the verdict on June 7, 2026, a copy of the verdict has already been sent to the High Court Division of the Supreme Court of Bangladesh. The government has called on the Chief Justice to take immediate steps to execute the death sentences of Sohel Rana and Swapna Akhter, the accused convicted in the Ramisa murder case. Finally, it was learned that the paper book is being prepared. Let's see how quickly this death sentence is finally executed.

(IV) Reasoning:

Post Mortem & DNA Report :

The autopsy report and DNA report proved that after forcibly raping Ramisa, an 8-year-old child, the murderer Sohel and his wife brutally killed her and severed her head from the body. The court accepted the post mortem and DNA report as relevant and irrefutable evidence. The court accepted it as per sections 174 and 509A of the Code of Criminal Procedure, 1898 and the relevant section of the Evidence Act, 1872.

Evidence of murder and destruction of evidence:

After killing Sohel Rana, he severed Ramisa's head from the body and tried to hide her remains and destroy the evidence of the crime.

Proof Beyond Reasonable Doubt

The court decided that the prosecution had been able to prove the guilt of the accused beyond reasonable doubt on the basis of direct testimony, medical reports, evidence collected during the investigation and other circumstantial evidence.

The Examination of Law and Conscience

The court noted in its observation that this case is not merely a trial of a crime, but rather a severe test of the conscience and humanity of society and the judicial system.

4.5 Concluding Remarks

This chapter reviews the judicial role of the Supreme Court and Special Tribunals of Bangladesh in the protection of child rights. The provision of section 16(2) of the Children Act, 2013 to treat the Women and Children Repression Prevention Tribunal as a child court, and the decision to form a separate Children Violence Prevention Tribunal through section 26A in the amendment of 2026, have been identified as an important step to make the trial process of child-related crimes more specific and effective.

The two cases discussed Roushan Mondal Case and State v. Secretary, Ministry of Law, Justice & Parliamentary Affairs make clear the dual role of the judiciary. On the one hand, the Roushan Mondal case shows how serious mistakes like extrajudicial trial, forced confession and awarding death sentence to a juvenile on the basis of weak evidence can occur—which were later revised by the High Court Division and the practical importance of the child law was re-established. On the other hand, in the case of a child in state custody, the court proactively establishes the principle of the best interests of the child and the obligations of the CRC through the exercise of suo motu jurisdiction, which is an example of the proactive role of the judiciary.

Both cases make it clear that while the legal framework is in place, there are still significant shortcomings in its implementation—particularly in the areas of transparency in the investigation process, the extraction of confessions through police torture, and the lack of a child-friendly judicial infrastructure. However, these two landmark judgments of the High Court will serve as important precedents for future cases and will compel lower courts and tribunals to follow the provisions of the Child Act properly. Overall, the review of this chapter demonstrates that while the judiciary acts as an important corrective force in the protection of child rights, the need for reform at the institutional and practical levels continues.

Chapter 5

Achievements and Challenges of the Judiciary in Protecting Child Rights

5.1 Introduction

This chapter presents a critical assessment of the role of the judiciary in protecting children's rights. First, the significant achievements of the judiciary in protecting and implementing children's rights will be analyzed. Next, the main challenges and limitations in the functioning of the judiciary will be reviewed. Then, the legal, institutional and implementation weaknesses behind these challenges will be identified and analyzed. Above all, an integrated assessment will be presented on how effective the judiciary is in protecting children's rights and in which areas it needs to improve to increase its effectiveness.

5.2 Achievements of the Judiciary in Protecting Child Rights

5.2.1 Supreme Court Constitutional and Suo Motu Jurisdiction

The High Court Division of the Supreme Court has intervened in cases of child abuse, neglect and institutional failure on its own initiative (Suo Motu). Where the executive or administrative structure has remained inactive, this activism of the court has served as an important means of ensuring accountability and has strengthened the role of the judiciary as the guardian of the Constitution.

5.2.2 Progressive Interpretation of the Children Act, 2013

The court has interpreted the law in several judgments focusing on the principle of "best interests of the child" enshrined in Section 33 of the Children Act, 2013, especially in the application of the provisions relating to bail (Sections 44-52), diversion (Section 37) and

prohibition of death penalty (Section 63). This interpretative approach has paved the way for the implementation of the rehabilitative objective of the Children Act.

5.2.3 Application of International Standards in juvenile justice

The courts are trying to comply with international standards in the juvenile justice system by using international documents like UNCRC, Beijing Rules, Havana Rules, Riyadh Guidelines as references in domestic judgments. And Bangladesh, as a ratifying country of UNCRC, is indirectly pressuring the government to protect the rights of children, establish juvenile justice systems and juvenile courts in accordance with international standards.

5.2.4 Protection of Procedural Rights of Child Offenders

The courts have played an active role in following simple bail procedures for child accused, ensuring separation from adult offenders and child-friendly treatment in pre-trial detention, involving them in creative and imaginative activities as punishment in rehabilitation centers for children, so that criminal tendencies among them are reduced, which has prioritized a rehabilitative approach instead of a punitive approach towards child offenders.

5.3 Challenges Faced by the Judiciary in Protecting Child Rights

5.3.1 Dysfunction of the Child Violence Prevention Tribunal

The Child Violence Prevention Tribunal, established by the 2026 amendment to Section 26A of the Prevention of Violence against Women and Children Act, 2000, to try all crimes related to child rape, is not being operated effectively due to lack of manpower, minimum infrastructure, adequate judges, and child-friendly court environment, which has been reflected in the trial process of recent child rape cases. Observing the Ramisa murder case, Judge Masrur Salekin of the Child Violence Prevention Tribunal of Dhaka said - 'This tribunal, established under the Prevention of Violence against Women and Children Act, is currently handling more than 1,800 pending cases, each of which is related to violence against children, sexual abuse, physical abuse, or other serious crimes. Behind every case is the unbearable pain of a child, the sigh of a family and the expectations of countless people waiting for justice. In that context, the case of child Ramisa carries special importance, because the investigation, judicial proceedings and testimony process in this case have been completed relatively quickly. Now, I have seen the courtroom of this tribunal directly on June

28, 2026. I saw that it is the same as all other courtrooms of Dhaka Metropolitan and District Judge Courts. There is no child-friendly environment or courtroom arrangement. Moreover, there is only one judge to handle these 1800 cases. This shows how much the government's judiciary has failed to protect child rights through fair trial of injustices against children.

5.3.2 Procedural Delays and Case Backlog

Despite the provision for speedy disposal of child-related cases, in reality, the absence of manpower, transparent rules and regulations in the investigation process, lack of financial incentives for those responsible for the investigation, absence of child-friendly courts, absence of independent judges are creating delays and case backlogs in cases. It is said that more than a thousand cases are pending in the relevant Child and Women Abuse Prevention Tribunal and Child Violence Prevention Tribunal in every district of the country. Because, it is easy to imagine how more than a thousand cases will be disposed of quickly with only one courtroom and one or two judges.

5.3.3 Inadequate Child-Friendly Infrastructure

The provisions of child-friendly court environment, separate waiting rooms and separation from adult accused as stipulated in the Children Rules, 2018 have not been implemented in most districts, which is creating a clear gap between the spirit of the law and the reality. Which is a clear violation of the provisions of the Children Act, 2018.

5.3.4 Inconsistent Judicial Interpretation Across Tribunals

While trying various cases, there is a noticeable inconsistency in the interpretations of the Children Act, 2013 and the Prevention of Violence against Women and Children Act, 2000 among different tribunals and courts, which we have clearly seen in the discussion of the cases in Chapter 4. In such situations, the complexity of this interpretation is giving rise to different outcomes and creating legal uncertainty.

5.3.5 Weak Inter-Institutional Coordination

The lack of effective coordination between the Judiciary, Probation Officer, Ministry of Women and Child Affairs, Department of Social Services, Child Rehabilitation Centres and Registered Child Development Centres is creating delays and inconsistencies in the

preparation of social reports, rehabilitation and subsequent monitoring, which is weakening the effectiveness of the overall child protection system.

5.4 Legislative and Institutional Gaps Affecting Judicial Effectiveness

5.4.1 Legislative Loopholes in Child-Related Laws

Section 26A, added in the 2026 amendment to the Women and Children Repression Prevention Act, 2000, has made provision for the formation of one or more “Child Violence Prevention Tribunals” in each district and metropolitan area to try crimes related to child rape. It is noteworthy that the government is amending the 2000 Act in 2026 to form a separate tribunal for the trial of child rape. At the time of the enactment of the Children Act, it was necessary to have a separate judicial system, court structure, child-friendly environment, adequate skilled manpower and highly trained judges for child victims of rape, abduction and disappearance. There is no clear legal provision regarding the functioning of the newly formed tribunal, manpower structure and construction of child-friendly courtrooms. If the provisions related to children of the Women and Children Repression Prevention Act, 2000 were added to the Children’s Act, 2013 and a single law was created, so many problems would not have arisen in the trial of crimes related to children and the implementation of all the rights of the child. If a single tribunal related to children was created under a single law and all crimes related to children were tried under it, and if child-friendly courts, skilled judges, manpower and infrastructure were created, the trial of child crimes would have been speeded up.

This is the clearest reflection of the goodwill of the Bangladesh government regarding child protection. In a developing and populous country like Bangladesh, where a significant number of child rape cases have been occurring since independence, there is still no strong and universal single law for the maximum protection of children and the trial of crimes related to children. This is the biggest limitation of the Children Act, 2013 and at the same time a manifestation of the weakness of the legal framework of the Bangladesh government.

Women and Children Repression Prevention Act, 2000 was originally enacted to prosecute crimes of torture committed against both women and children under the same legal framework. As a result, the original framework of this Act was fundamentally lacking in separate procedural safeguards keeping in mind the age, mental development and special

needs of the child. Although the provision of a separate tribunal was made only for rape-related crimes by adding Section 26A through the amendment of 2026, there is still no provision for a separate child-friendly judicial framework for other forms of child torture — such as sexual harassment, trafficking-related torture or child victims of acid attacks. It is becoming urgent to create a consolidated law by combining its child-related provisions with the Children Act, without creating complications by keeping this separate law.

Furthermore, the procedures of the tribunals constituted under this Act are largely modelled on those of adult cases, with limited provision for separate examination of child witnesses and victims, taking of evidence through video link or specific procedural provisions to prevent secondary victimisation. This has created a philosophical mismatch between the Children Act, 2013 and the Women and Children Repression Prevention Act, 2000 — on the one hand, the Children Act seeks to establish the best interests of the child and a rehabilitative perspective, while on the other hand, the Prevention of Violence against Women and Children Act remains largely reliant on a punitive framework. As a result of this dual legal framework, the judiciary often has to juggle two different philosophical approaches in its decisions, which in practice leads to inconsistencies and delays.

5.4.2 Institutional Gaps: Absence of a Coordinated Child Protection Mechanism

Aside from the legal gaps, an important institutional deficiency is the absence of a central, coordinated and accountable institutional framework for child protection in Bangladesh. Under the Children Act, 2013 and the Prevention of Violence against Women and Children Act, 2000, the judiciary, probation officers, police child affairs desks, child rehabilitation centers, orphan and distressed child development centers, the Department of Social Services and the Ministry of Women and Child Affairs, these institutions work separately, but no legally binding coordination mechanism (formal inter-agency coordination mechanism) has been established between them for information sharing, case referral and monitoring.

As a result, information fragmentation is seen at every stage of a child abuse case from police investigation to court, delay in preparation of social background report, in some cases, probation officer not having any information about the child, lack of coordination between the judicial process and psychosocial support and rehabilitation plan of the victim child, lack of long-term supervision after the case is settled, not taking care of children in child rehabilitation centers, creating obstacles to the overall development of children through self-

financing of the budget of orphan and distressed child development centers, among others. Although the responsibilities of probation officers are stipulated in the Children Act, 2013 and the Children Rules, 2018, this provision is not being effectively implemented due to the lack of sufficient number of trained probation officers and social workers at the district level. There is no separate government department to supervise probation officers.

In the absence of a central child protection database or inter-ministerial coordination committee, the judiciary is often forced to work in isolation. Whereas a coherent institutional framework would have made judicial decisions more informed, speedy and effective in terms of rehabilitation. This institutional fragmentation would therefore be identified as a distinct and important factor in the weakening of judicial effectiveness, alongside legal loopholes.

5.5 Concluding Remarks

This chapter shows that the judiciary of Bangladesh has made significant contributions to the protection of children's rights, on the one hand through the exercise of the Suo Motu jurisdiction of the Supreme Court, progressive legal interpretation and the incorporation of international standards, on the other hand, its effectiveness has been limited due to the lack of institutional infrastructure, interpretative inconsistencies and inter-institutional coordination. The structural inconsistencies between the Children Act, 2013 and the Women and Children Repression Prevention Act, 2000 and the backlog of cases on the existing Women and Children Repression Prevention Tribunal, the unclear functioning and infrastructure of the newly formed Child Violence Prevention Tribunal, insufficient judges, acute shortage of skilled manpower prove that it is not possible to ensure full protection of children's rights through judicial activism alone without comprehensive legal reforms, infrastructure of child-related courts and elimination of manpower shortage.

Chapter 6

Conclusion

6.1 Introduction

This study analyzes the role of the judiciary in the juvenile justice system in Bangladesh, particularly in the context of the Children Act, 2013 and related institutional frameworks. The previous chapters have discussed the legal framework, institutional arrangements, judicial precedents, and implementation challenges in turn. This concluding chapter summarizes the findings in light of the main research questions, provides policy and practical recommendations, and identifies potential directions for future research.

6.2 Findings of the Research

The principal findings of this study are as follows:

The exercise of the High Court Division's suo motu jurisdiction has played a significant role in protecting children's rights, particularly in cases such as State v. Roushan Mondal and

State v. Secretary, Ministry of Law, Justice & Parliamentary Affairs, where the Court identified institutional shortcomings and issued specific directions for reform.

Despite the progressive provisions of the Children Act, 2013, its implementation remains inadequate, particularly due to the shortage of trained Probation Officers and the lack of child-friendly judicial infrastructure.

The introduction of Section 26A (Child Violence Prevention Tribunal) through the 2026 amendment represents a positive legislative development; however, its practical effectiveness has yet to be adequately demonstrated.

The Women and Children Repression Prevention Tribunals continue to suffer from case backlogs and delays in the disposal of cases, thereby impeding children's access to timely justice. Although international standards, including the UNCRC, the Havana Rules, and the Riyadh Guidelines, have been partially incorporated into domestic law, institutional capacity constraints remain a major obstacle to their effective implementation.

6.3 Recommendations

Based on the findings of the study, the following recommendations are proposed :

1. Legal Reform: The ambiguous provisions of the Children Act, 2013 (such as age determination method, specific criteria for applying diversion) need to be clarified.
2. Institutional Capacity Building: Adequate number of Child Development Centres and trained probation officers should be appointed in each district.
3. Training: Regular training on CRC and child law should be provided for police, magistrates, judges and lawyers.
4. Inter-institutional Coordination: It is necessary to develop an effective coordination mechanism between the police, social services department, probation department and the courts.

5. Rehabilitation-oriented approach: Restorative and rehabilitative justice models should be given priority instead of punitive methods.

6. Monitoring system: A central monitoring system can be established to monitor the activities of children's courts and related institutions.

7. Child-centric individual tribunal : Establishing child-centric specialized individual tribunals would facilitate the expeditious disposal of cases involving child-related offences and ensure a more child-friendly justice system.

6.4 A Way Out for Further Research

Future research may focus on the following areas :

Conducting field-based empirical research through interviews with judges, lawyers, Probation Officers, and child victims to address the limitations of this doctrinal study.

Undertaking longitudinal studies to evaluate the practical effectiveness of the tribunals established under Section 26A, given its recent introduction.

Carrying out comparative research on the child justice systems of Bangladesh and other South Asian jurisdictions, particularly India and Nepal.

Examining the impact of transferring children to adult prisons upon attaining the age of majority, with particular emphasis on rehabilitation and reintegration outcomes.

6.5 Concluding Remarks

Overall, this study demonstrates that while Bangladesh's legal framework for child rights protection is in principle in line with international standards, there are still significant gaps in its implementation. The judiciary has played a significant corrective role in child rights protection through several landmark judgments, but weaknesses in law enforcement agencies and institutional infrastructure have limited this progress. For real change, legal reforms, as well as concerted efforts to increase institutional capacity, professional training, and social awareness are essential. Building a truly child-friendly justice system is not only a state responsibility, but also a continuous social commitment, through which it will be possible to ensure real justice for the children of Bangladesh.

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