

## PROTECTION OF BASIC HUMAN RIGHTS OF STREET CHILDREN: BANGLADESH PERSPECTIVE

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### ABSTRACT

No one will deny the fact that the street children are the most neglected section of children in Bangladesh. They are dull, afraid, abandoned, assaulted, tortured, and killed every day. They matured very early, spoiled and very often die very quickly. Even if they can survive anyhow, they will lead the life of the victim and without rights. Even, their basic human rights are violated by various means. To combat the violation of their rights effectively, we must be careful about their actual causes of street migration and their reality. The framework of this paper is to focus on existing nationwide violations of their basic human rights from the context of various national and international instruments such as The United Nations Convention on the Rights of the Child 1989 (UNCRC), the Children Act 2013 (CA 2013) or country's existing development policies. Within the framework, main objectives of this research paper is to articulate various basic human rights provided to street children by those instruments and evaluate the level of their violation in Bangladesh.

**Keywords:** Street children, Human rights, UNCRC, Children Act 2013, Bangladesh.

## INTRODUCTION

Street children in Bangladesh lead a life of suffering and insecurity. Many families abandoned their children and that forced them to choose hostile street life. Some of these children get involved with drugs, organized crime and other illegal activities and become easy targets of exploitation and violence by their peers, surrounding people, political leaders, musclemen, and government officials i.e. law enforcing agencies. They are scared, impoverished and have no idea about their rights and often have no family members to supervise them or come to their defense at time of need. Analyzing all the national and international instruments, we have found that there is no specific mention of street children. So, we will evaluate the enjoyment of the right of street children based on the rights given to the children in general. As growing up in a street environment is dangerous and risky, so street children are facing a large number of problems and rights violation.<sup>i</sup> Theoretically they possess all the rights given by different national and international legislation but practical scenario is totally different. They are even depriving from all the basic human rights; enjoyment of all other sophisticated rights is far away. Our research neither covers all the rights violation nor it is possible. We will cover some of the grave violation of basic human rights like Right to life i.e. Right to food, health, shelter, education etc.; right to protection from trafficking, extortion, illegal arrests and maltreatment in juvenile justice system etc. The study is mainly based on analysis of secondary data including published books, journals, national and international reports newspapers etc. We have also analyzed various United Nations (UN) documents and national legislations and development policies.

## CONCEPTUALIZING THE ISSUE OF STREET CHILDREN

### *Definition and Types of Street Children*

Street children are present in almost everywhere in the world. Dynamic and mobile characteristics of street children make it difficult to determine exact number, it requires specific approaches other than general census process.<sup>ii</sup> Last survey relating to street children of Bangladesh was held in 2003, so the exact data is not available. There was a estimation that there are 1.5 million street children across the country<sup>iii</sup> and the numbers will increase to over 1.6 million by 2024.<sup>iv</sup> Defining ‘street children’ is difficult for various reasons; children who

live on the streets have “different characteristics, backgrounds and personalities,”<sup>v</sup> and they “create their own subculture and develop their own norms, values and ways of surviving.”<sup>vi</sup> In this article, we use the term street children to describe “young people with a range of street connections.”<sup>vii</sup> In Bangladesh, street children can be defined as those who earn their living on the city streets and stay there for most, or all, of the day. They may or may not have parents or legal guardians.<sup>viii</sup> Consortium for Street Children use the term ‘street children’ as the children who: “Depend on the streets to live and / or work, either on their own, or with other children or family members; and have a strong connection to public spaces (e.g. streets, markets, parks, bus or train stations) and for whom the street plays a vital role in their everyday lives and identities.”<sup>ix</sup> Different writers classify street children differently but Analyzing the commentary of various writers, following category seems suitable for the purpose of our study.<sup>x</sup> “(a) Street living children- those who sleep in public places without their families (b) Street working children - those who work on the streets during the day and return to their families at night (c) Children from street families - who live with their families on the street.”

### ***Reasons Behind Street Migration***

Every single child has their own unique reasons for their street migration which differ from another.<sup>xi</sup> The causes of street involvement in Bangladesh are “complex, multi-faceted, context-specific, and personal”.<sup>xii</sup> One of the main reasons is various type of vulnerability posed by “climate change and disasters, both natural and man-made”.<sup>xiii</sup> This vulnerability leads many families in distress and thus the children of those families migrate to the street. Again death, separation or remarriage of parents; hunger; illness; physio-mental abuse etc. make the children bound to migrate themselves to the street of the cities for survival.<sup>xiv</sup> Other reasons include unstable socio-economic situation in the country,<sup>xv</sup> exploitation by adults, urbanization and overcrowding, disinheritance or being disowned,<sup>xvi</sup> poor working facilities in rural areas, drug addiction, missing during the journey from one place to another,<sup>xvii</sup> abandonment by or escaping from miscreants after trafficking.<sup>xviii</sup> Tayebeh Zarezadeh mentions some more specific factors which influence street migration such as “structural combination and population growth, migration, war, changes in social and cultural values, the differences among generations, and differences in attitudes and wrong and discriminative beliefs such as considering children as a source of income, being harsh towards them, and lack of organizations to support them etc.”<sup>xix</sup> He also mentions some other family factors like “extended, populated, and stressful families with delinquency and addiction background,

parents' unawareness of their appropriate needs, characteristics of children, children's mental capacity and capabilities in tackling life problems, maturity crisis and its effects etc."<sup>xx</sup> The 'complexity and specificity' of the causes of street migration mean that responses need to be based on appropriate policy prepared for them thorough extensive research.<sup>xxi</sup>

### ***Legal Regime of Street Children***

States are duty bound to protect the Human rights of every human being within its jurisdiction. keeping in mind that multiple factors are responsible to their street migration and they are vulnerable and immature, this child should be provided with some additional rights. But except a few soft law instruments, there is no specific mention about street children in any national or international instruments. But as a child they are entitled to get the various rights stipulated in a number of national and international legislations. We will not articulate all the human rights here, rather we will discuss about the basic human rights provided by those instruments. Though International Labor Organization (ILO) Convention No. 138 on the Minimum Working Age (1973) set the minimum age of 15 but Article 3 provides if the nature or working environment is likely to jeopardize the health, safety or morals of young persons, then minimum age is 18 years. In Article 1 of ILO Convention on the Worst Forms of Child Labor, 1999 urges each state signatories to take immediate and effective measures to prohibit and eliminate the worst forms of child labor.<sup>xxii</sup> The UNCRC provides many rights for all children, among those, few survival and protection rights of street children are grossly violated regularly. They are: The right to life including 'right to protection from violence, injury, abuse, neglect, maltreatment or exploitation' (Article 19), the right to health (Article 24), the right to education (Article 28), the right to an adequate standard of living (Article 27), the child labor related rights (Article 32), the right to participation, the right to play and recreation (Article 31), Protection of children from all forms of sexual exploitation and sexual abuse (Article 34), legal protection in the case of arrest (Article 37). Again, Article 25 of the Universal Declaration of Human Rights (UDHR) states that everyone has the right to a standard of living, adequate health and wellbeing, including food, clothing, housing, medical care and necessary social services.<sup>xxiii</sup> Both international and national laws prohibit arbitrary detention and physical abuse of children by police. Apart from UNCRC mentioned earlier, the International Covenant on Civil and Political Rights (Articles 6, 9, 10, 14 and 24), the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 11), are also worthy of mention to protection of rights of street children. The UN Guidelines for the

Prevention of Juvenile Delinquency (Riyadh Guidelines), UN Guidelines such as UN Rules for the Protection of Juveniles Deprived of their Liberty; UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) protects the rights of children in conflict with law. Given the on-going vulnerability of street children, the United Nations Human Rights Council has adopted a resolution<sup>xxiv</sup> condemning the violations and abuses of the rights of street children, calling on states to strengthen efforts to improve the situation of street children and give full effect to their rights.<sup>xxv</sup> Now we will discuss briefly about national legislation. The Children Act 2013 has no specific mention about street children. It is the implementing legislation of the UNCRC and refers to it in the preamble. According to the Act, anyone below 18 years of age is child and whatever the circumstance is, the police cannot arrest a child aged below nine. If the police arrest a child above nine, law enforcers cannot apply handcuffs and rope around waist to the child. There is a provision of a maximum of five- year imprisonment or a penalty of Tk. five lakh or both, if one abuses a child in criminal activities. This act protects victims and witnesses specially children accused of petty crime. If a case is filed against a child, whatever crimes s/he committed, the juvenile court should try him/her.<sup>xxvi</sup> As far as the law reforms are concerned, position of Bangladesh is good, however the enforcement scenario is dismal.<sup>xxvii</sup> In National Children Policy 2011 government set strategic guidelines to improve the fate of various types of children such as “disabled children, autistic children, backward and small ethnic group children etc.”, but there is no specific mention about street children. In 2011 Bangladesh government enacted the Vagrants and Shelter less Persons Act 2011 which is considered as a threat to the safety and wellbeing of millions of homeless individuals in Bangladesh, especially street children. According to this law police and judicial officers are empowered to arrest suspected vagrants and detain them in rehabilitation centers up to two years. If anyone want to escape, they will lead to a punishment of up to three months of imprisonment.<sup>xxviii</sup> Human rights activists stated their concern calling it a violation of the human rights of the impoverished homeless people and they feared the likelihood of branding them as delinquents.<sup>xxix</sup>

## **VIOLATION OF BASIC HUMAN RIGHTS OF STREET CHILDREN**

### ***Position of Street Children in Society***

Street children of Bangladesh live in dismal poverty and they have no idea about their rights. They struggle to access education; healthcare and they are separated from mainstream

society.<sup>xxx</sup> Vulnerability and their need to earn money for survival lead these children to be exploited. Street children face acute marginalization and often experience abuse on the streets; they often suffer from health problems and struggle to access basic services including education.<sup>xxxix</sup> Street children are seen in railway stations, bus stations, launch terminals/ ferry ghat, crowded markets, pavements and shrines etc. They survive as porter, rag picker, bus /truck/ tempo helper, pushing carts, begging, informal sex workers, mafia aids (arms, drugs), petty theft/ pilfering , robbery<sup>xxxix</sup>, breaking bricks or pushing rickshaws, hawker, shoe polishers, tea sellers, flower seller etc. A small fraction of them are involved in theft, pick pocketing, drug business etc.<sup>xxxix</sup> Many street children are being used as picketers or a criminals' accomplice in Dhaka city by so called gang leaders or organized criminals. Many of them are being picked up by organized gangs for custody of arms, throwing bombs , selling drugs etc.<sup>xxxix</sup> Their residence are not fixed and they usually move very quickly from one place to another in search of living or working facilities.<sup>xxxix</sup> Guards and police created problem for street children's sleeping.<sup>xxxix</sup> Street children are deprived of education, nutrition and healthcare facilities. They are neglected section of the state. They suffer and sometime die a premature from various easily treatable diseases like pneumonia, tuberculosis, head lice and a host of sexually transmitted diseases including gonorrhoea, syphilis AIDS etc.<sup>xxxix</sup> In Bangladesh, there are few government and non-government organizations who are working for street children. Government have some rehabilitation center across the country and they also help in various project on street children. Among the international and non-government organization World Vision Bangladesh, the UNICEF, Aparajeyo Bangladesh (AB), Bangladesh Street Child Foundation, Economic Development Organization (LEEDO), Ahsania Mission Children City, JAAGO Foundation, Street Children Activist Network, Bangladesh Street Child Organization, Mojar School, Apon Foundation etc. are working for street children.

### ***Violation of Human Rights of Street Children***

Street children of Bangladesh are one of the most vulnerable and marginal groups and they face a lot of problem such as physical and sexual abuse by adults of the immediate community; insecure life; no, or inadequate access to educational institutions and healthcare facilities; lack of decent employment opportunity and harassment by law enforcing agencies.<sup>xxxix</sup> Sufferings they faced vary according to age and gender. Children at their earlier age face physical and mental abuse like beating and under payment, teenage children are particularly prone to sexual

exploitation. They are at higher risk of children trafficking and getting involved with premature sexual and drug related dealing.<sup>xxxix</sup> They are suffering a lot in their street environment and their rights also violated frequently. A brief account violation of rights is given below.

### ***Right to Life***

The right to life is the basic structure of human rights which is guaranteed by Article 32 of the Constitution of Bangladesh (COB) as a fundamental right. The significance of this article is that government is bound to protect the life of every person living within its territory and there is no qualification or limitation on the right except that life or liberty can be taken away in accordance with the laws of the country. That implies there may have some laws or limitation to enjoy this right but that limitation, in no way, permit to torture or kill the street children by law enforcing agency. Moreover, now a day, the 'right to life' has been widely utilized by the Courts to enforce the socio-economic rights of the people which are otherwise not judicially enforceable. Expanding the concept, courts in various cases of Bangladesh and India declared following rights as part of right to life - Right to Livelihood<sup>xl</sup>, right to shelter<sup>xli</sup>, Right to health<sup>xlii</sup>, Right to education<sup>xliii</sup>. These rights of street children are frequently violated in our country. Street children are always in want of healthy and adequate diet and they eat what they can find. Health problem and growth problems are also common with these children. As they don't have access to sanitary facilities, addicted to various drugs, so very often they are dirty and are exposed to different illnesses and these hard living conditions have a negative impact not only on their physical but also psychosocial development.<sup>xliv</sup> It is found that most of the street dwellers have been suffering from diseases of respiratory and digestive system, weakness, severe pain and scabies.<sup>xlv</sup> Child laborers suffer from exhaustion, injury, exposure to dangerous chemicals, plus muscle and bone afflictions.<sup>xlvi</sup> They don't have the same opportunities as other children and for this reason obviously they are uneducated.<sup>xlvii</sup> Education is the most cost effective possible way for Bangladesh to mainstreaming street children in the society and to ensure their rights. Above incidences depicts the violation of their rights to life.

### ***Violence and Torture***

Torture by public, beating by police and security forces etc., psychological torture and sexual violence<sup>xlviii</sup> are the most obvious fate of this young kids. However, violence among street children is very common. Again, stigmatization and public hostility are a common form of

violence faced by by street children on regular basis because of their appearance and violent activities.<sup>xlix</sup> It is a common occurrence for street children to be beaten by police officers and “do bad things to children” while working on the streets. They demand money from children who are working on the streets and if the children don’t give them money, they will beat them. Conticini<sup>l</sup> found that children working on the street in Dhaka were under pressure to give “tolls” or “taxes” to the police.<sup>li</sup>

### ***Child Trafficking and Sexual Exploitation***

Internal and international child trafficking in Bangladesh is widely prevalent. Girls are trafficked mainly for the purpose of bonded servitude or sexual exploitation. Boys have also been trafficked mainly for servitude or camel racing jockeys in the Middle East.<sup>lii</sup> Street children are easy target to trafficking and it is very easy to convince them with very little or even some lucrative words. Children in general are at threat of sexual abuse and exploitation but street children are particularly vulnerable. One report shown that both street girls and boys are being sexually exploited, facing forcible rape and without payment sex.<sup>liii</sup>

### ***Using Children for Illegal Activities***

Street children are being used by political leaders and local musclemen for conducting illegal activities like carrying of arms, selling drugs, snatching, pick-pocketing etc. Some of the main risks of their life include beating by the police, ending up in detention center, severe injury, receiving physical torture etc. Regular abuse by organized gang, taking away their hard-earned money, provoked them to buy drugs etc. are common phenomena in their life. In case of failure, those culprits never hesitate to torture or evict them from the area. Very often they are being hired by organized crime groups for committing serious crimes such as sell drugs, carrying weapons, committing political violence and even contract killings.<sup>liv</sup>

### ***Violation of Rights in Juvenile Justice System***

Bangladesh is a signatory country to UNCRC since 1990 and thus are duty bound to protect the rights of the children accordingly. Despite giving regular commitment to the world community to protect and promote child rights, basic human rights violation of children coming into conflict with the law are a matter of great regret in Bangladesh.<sup>lv</sup> In the juvenile justice



system of Bangladesh street children face double risk. Firstly, they are at high risk of coming into contact with the juvenile justice system and secondly, they are not capable or less capable to defend themselves. They are subject to harsh sentences for petty offences. Arrest by police is a regular phenomenon and they face cruel, inhuman or degrading treatment or punishment in regular basis.<sup>lvi</sup> Failure or inability to pay *hafta* (tolls), usually results in a child's being beaten, detained, or arrested by police. Street children are treated by the police and public as a culprit or would be criminals. If they placed in detention center or in police lock-ups, [this] they become subject to frequent corporal punishment, sexual assaults, torture, and humiliation.<sup>lvii</sup> In clear violation of the UNCRC and CA 2013, police very often kept them with adult offenders which exposed them to physical and sexual abuse and retarded psychological and physical developmental.<sup>lviii</sup> Police also violates their rights during investigation and they never get the opportunity to be properly represented in court. In absence of any supervision or legal support to them, the Magistrate generally decides their cases hearing arguments from police only. In jail or other detention center, many of their basic human rights are violated by authority and they become exploited by adult offenders. Incidents of violation of rights in juvenile justice system are seldom investigated and perpetrators remain untouched. Many cases of police abuse of street children remain undetected and unreported.<sup>lix</sup> Widespread impunity of the perpetrators make the violation of street children's right a continuous event.<sup>lx</sup>

## CONCLUSION AND RECOMMENDATIONS

We can say 'street children' are children who survive on the streets but their survival is not easy. As mentioned above their rights are violated in regular basis. All-embracing reforms are necessary to protect them. A 'street children friendly policy', closely resembled with the principle and practice of UNCRC could be developed. Though institutional care helps to develop the scenario but we have to think the alternative also. Some national and international NGOs are working to improve their fate but they are working separately and haphazardly which do not give any fruitful results. The dreadful level of violence against children depicts the failure of [Our] governments to fulfil their duty. It is our hope that governments will protect the street children from exploitation and prohibit corporal punishment by making law and such measures will eliminate the curse of violence against street children.<sup>lxi</sup> Government's tendency

to mix the characteristics of disadvantaged children with street children shows the lack of farsightedness, so they are designing expensive and ineffective policies. The number of street children in Bangladesh continues to rise and it has become clear that current programs are not working very well.<sup>lxii</sup> This street kids are posing a threat to the society.<sup>lxiii</sup> To save this deprived kids and society as a whole, there is a compelling necessity for a policy which is sensitive towards street children. In order to achieve the above goal and to improve the present level of human rights protection we suggest:

1. Government should conduct a holistic survey on 'street children and their families' to learn the proper reasons of street migration. Government can ensure livelihood opportunities for parents of those children. That will reduce the street involvement.
2. Government agencies i.e. law enforcing agency of Bangladesh does not have capability or skill to approach humanly with street children. Government should make proper policy guideline and trained them accordingly.
3. There are many parentless street children. Though there are some safe home for them but that are inadequate and also unsafe. Government and various NGOs should come forward to ensure safe, healthy shelters and with Free Medical treatment facilities for street children. General education and vocational training programs should initiate to ensure their better future.<sup>lxiv</sup>
4. In order to protect their rights in juvenile justice system government should ensure the registration of each child taken to a police station, with details of children and detention. Frequent mandatory review of the registers by a judicial magistrate should ensure.<sup>lxv</sup> Effective child help line should establish in every police station and other congenial places as per requirement of CA 2013 to ensure fruitful means communication at crisis moment.
5. Court can play an effective role by providing necessary assistance to street children in conflict with the law at all stage of proceedings,<sup>lxvi</sup> and by ensuring supervision of the rehabilitative process.
6. Strict 'investigation and sanction mechanism' should implement against the violator (police, other law enforcement authorities or employees in juvenile detention centres) to protect these little kids from physical, mental and sexual abuse.
7. Considering the number of street children, gravity of rights violation and future socio-economic loss of the country, government can set up a separate commission for street

children. If not possible, a separate wing in Ministry of Social Welfare or in National Human Rights Commission must open to redress their grievance.

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<sup>lii</sup> 'Child Sexual Abuse, Exploitation and Trafficking in Bangladesh | UNICEF' <[www.unicef.org/bangladesh\\_Child\\_Abuse\\_Exploitation\\_and\\_Trafficking.pdf](http://www.unicef.org/bangladesh_Child_Abuse_Exploitation_and_Trafficking.pdf)> accessed 20 June.

<sup>liii</sup> READ, need assessment survey for the disadvantaged women and children in the urban areas of Bangladesh (Dhaka, Concern Bangladesh, 2000, page vi).

<sup>liv</sup> Street children are involved in organised crime in Bangladesh ( n 3).

<sup>lv</sup> Ms. Shamim Ara, 'BANGLADESH: Rights of the Child come into contact with Law and state of Juvenile Justice system- Bangladesh perspective' (2012) <<https://reliefweb.int/report/bangladesh/rights-child-come-contact-law-and-state-juvenile-justice-system-bangladesh>> accessed 25 August 2020.

<sup>lvi</sup> Khair, Sumaiya, "Street Children in Conflict with the Law. The Bangladesh Experience", *Asia-Pacific Journal on Human Rights and Law*, Vol.2., No. 1, 2001, Kluwer Law International, 56.

<sup>lvii</sup> Jo Becker, 'Easy Targets: Violence Against Children Worldwide' 9 <<https://www.hrw.org/sites/default/files/reports/violence2001.pdf>> accessed 25 August 2020.

<sup>lviii</sup> Ibid. 11.

<sup>lix</sup> Ibid. 32-33

<sup>lx</sup> Berezina (n 15) 4.

<sup>lxi</sup> Jo Becker (n 57) 37.

<sup>lxii</sup> 'UN Educational, Scientific and Cultural Organization UNESCO Bangkok, Asia-Pacific Programme of Education for All' <[www.unescobkk.org/index.php?id=3371](http://www.unescobkk.org/index.php?id=3371)> accessed 26 August 2020.

<sup>lxiii</sup> Rubayet (n 39).

<sup>lxiv</sup> 'Recommendations: A Baseline Survey of Street Children in Bangladesh,' (2003) <<https://www.streetchildren.org/wp-content/uploads/2019/09/survey-street-children-Bangladesh.pdf>> accessed 20 June 2020.

<sup>lxv</sup> Ibid.

<sup>lxvi</sup> Shamim Ara (n 55).