

Juvenile Justice in Bangladesh

KEY STATISTICS

Basic data	
Child population (under 18 years)	59.5 million
Minimum age of criminal responsibility	9 years
Age when children can be tried and punished as adults	16 years
Number of Child Development Centres	3

BACKGROUND

As in many countries, the situation of children coming into conflict with the law is an issue of serious concern in Bangladesh. The Committee on the Rights of the Child in its concluding observations of 2003 expressed its concern over "the limited progress achieved in establishing a functioning juvenile justice system throughout the country".

In the absence of a proper functioning juvenile justice system, no accurate statistical information is available on the actual number of children in conflict with the law in Bangladesh. Furthermore, no separate juvenile justice law exists. The 1974 Children Act is the main law concerning children in Bangladesh, but it deals both with children in need of protection/care as well as children in conflict with the law. Other laws, such as the Penal Code, the Code of Criminal Procedure, the Suppression of Violence against Women and Children Act, also contain provisions regarding children in conflict with the law.

In 2004, the age of criminal responsibility was raised from 7 to 9 years old. In a country where levels of birth registration are about 10-15 per cent, this means children in conflict with the law are often deprived of age-appropriate protection. In addition, children over 16 are treated as adults because according to the Children Act, "child" and "youthful offender" are defined as a person under the age of 16.

At present, there are three specialized juvenile courts established in the country and the creation of another four of these courts is being considered. However, most of the children are dealt with through the regular criminal courts, where they are often tried jointly with adults and have no legal representation.

There are three specialized institutions for the detention of child offenders, which have

been renamed as the Child Development Centres. The two centres for boys are located in Tongi and Jessore and the girls' centre is in Konabari. In practice, many children however are sent to ordinary prisons where they are imprisoned with adults.

ISSUES

UNICEF's overall objective is to establish a child oriented juvenile justice system which ensures the well-being of children in conflict with the law and an appropriate reaction according to their age.

As mentioned above, there is no separate juvenile justice law. Instead different laws contain provisions regarding children in conflict with the law and this often leads to confusion in regards to which law needs to be applied.

Most of the existing legislation predates the current international standards on juvenile justice such as the Convention on the Rights of the Child, the UN Standard Minimum Rules for the Administration of Justice (Beijing Rules), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), and the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) and thus do not reflect and comply with these principles.

Children in need of protection are often treated the same as children in conflict with the law. Under the different laws, the police enjoy wide discretionary powers to arrest children in need of protection on grounds of vagrancy, begging, prostitution, smoking, dropping out of school. Child victims and witnesses of crime are subject to arrest and detention in order to safeguard them.

The principle of diversion, the corner stone of the international standards on juvenile justice, is not yet recognized by Bengali legislation and legal practice. The Children Act, which relies heavily on institutionalization of children and deprivation of liberty, is generally seen by the police and judiciary as the only possible way to rehabilitate or "correct" children.

The existing legislation, which provides limited protection for children in conflict with the law, is not enforced in most cases. The Children Act specifies that children should be tried at juvenile courts and to be separated from adults at all times, but in practice, children are tried at regular courts together with adults and are sent to ordinary prisons where they are imprisoned with adults.

There is a lack of knowledge about the concept of juvenile justice and the rights of children who come into conflict with the law by relevant government officials and professionals working in the justice system, such as police, judiciary, social welfare officers and probation officers. Arrest, detention and sentencing are often arbitrary and at times even illegal. Physical abuse, force and torture are applied during arrest and interrogation. Children are frequently sexually abused. Detained children can be below the age of criminal responsibility and kept with adult prisoners, exposing them to abuse, violence and negative social attitudes.

In order to be able to provide protection to children in conflict with the law, comprehensive reform of the juvenile justice system is necessary.



ACTION

Based on an assessment carried out in partnership with relevant institutions, UNICEF developed training materials on juvenile justice for police, magistrates and judges. The handbook for police was reviewed by a sub-committee formed by the National Taskforce, which recommended it to be used during trainings as a guide on juvenile justice. UNICEF was instrumental in supporting the drafting of the 'National Social Policy on Models of Care and Protection for Children in Conflict with the Law', which was a first in separating children in need of protection from children in conflict with the law and also provided guidelines on how to appropriately deal with these children. The international minimum standards on juvenile justice (mentioned above) was translated into Bangla in order to ensure that front line workers such as police, magistrates, judges, probation officers and social

workers would have better access to these international standards. UNICEF also played an instrumental role in establishing the National Taskforce on children in conflict with the law and provided critical inputs to proper functioning of the high-powered group chaired by the principal secretary to the Prime Minister.

In 2006, UNICEF and CIDA established a Juvenile Justice Roundtable (JJR) with a broad membership including UN agencies, development partners, donors and NGOs. Its objective is to assist the government in conducting comprehensive reform of the juvenile justice system by creating a common understanding and coordinating action among key actors. In addition, advocacy was initiated with the policy-makers and training institutes for judges, magistrates and police in order to incorporate a juvenile justice component in their respective training curricula. Training sessions for police and magistrates were organized.

UNICEF is also advocating with relevant ministries in order to incorporate the international minimum standards on juvenile justice into domestic legislation. The new partnership being developed with the Ministry of Law, Justice and Parliamentary Affairs and the Ministry of Social Welfare will open up the opportunity to further advocate for reform that will lead to the establishment of a child-oriented juvenile justice system in Bangladesh.

IMPACT

UNICEF Bangladesh has contributed in several ways to addressing the issue of children in conflict with the law.

After years of advocacy amongst the different actors, the minimum age of criminal

responsibility was raised from 7 to 9 years old. A high-level Juvenile Justice Task Force was appointed by the government, which identified priority areas for action.

Moreover, the Juvenile Justice Roundtable has become a medium through which the main actors and key stakeholders coordinate action. Moving away from scattered and independent activities, the forum contributes to creating a common understanding among the members on the strategy to adopt in order to carry out comprehensive juvenile justice reform.

The level of awareness on juvenile justice issues, as well as judicial activism has visibly increased among stakeholders and key duty-bearers. In addition, unprecedented judgements, referring to minimum international standards in relation to children in conflict with the law, have been issued.

It is expected that further training on the international juvenile justice standards will provide knowledge and practical ways for police, magistrates, judges, probation officers and social workers to apply these principles as they carry out their duties and responsibilities.

IMPACT

- Cooperation and partnership with the Ministry of Law, Justice and Parliamentary Affairs and other actors will be strengthened.
- As chairperson and member of the Juvenile Justice Roundtable, UNICEF will support the development of a plan of action in regards to comprehensive juvenile justice reform. Several workshops will be conducted with government officials and key stakeholders on the modern trends of juvenile justice. Following these activities, a national consultation will be organized to draft the results-based and operational National Plan of Action which will specify the actions to be taken, the responsible actors, the time-frame and monitoring indicators.
- Continuous capacity building of front line workers such as police, magistrates, judges, probation officers and social workers will be conducted through their training institutes and regular curricula.
- Through the implementing partners, lawyers will be trained to provide free legal representation to children in conflict with the law thus contributing to the promotion and protection of their rights.
- Pilot interventions on diversion programmes and alternative non-denial freedom measures will be supported.
- Awareness raising campaigns will be implemented to de-stigmatize and protect the rights of children in conflict with the law.