

# Compliance of CRC and UPR: Bangladesh Scenario and Responding to VAC and Diversion

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# Background on CRC

Bangladesh signed and ratified CRC in 1990 as one of the first country. During ratifying the CRC Government of Bangladesh placed a reservation to articles **14(1)** and **21** which concern the right of the child to freedom of thought, conscience and religion, as well as system of adoption respectively.

# Optional Protocol of CRC

Bangladesh is also a signatory to: (i) the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; and (ii) the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

**Bangladesh is yet to sign the Optional Protocol 3 (Communication Procedure).**

# Compliance of CRC

CRC Provisions	Compliance	Evidence
Definition of Child as below 18 years.	Yes	18 in the National Children Policy 2011 and in the Children Act 2013 . (But different in others laws: 14, 16)
Non-discrimination of all children: race, sex, language, religion, ethnicity and parents social status.	Yes	Constitution of Bangladesh Child policy 2011 Children Act 2013
Best interests of the child shall be the primary concern;	Yes	Constitution of Bangladesh Children Act 2013 Children Policy 2011
Participation of Child and respect of their opinion/views.	Yes	Children Act 2013 Children Policy 2011

# Compliance of CRC

CRC Provisions	Compliance	Evidence
Protection of rights on violence agt children by state: through legislative, administrative and other measures, international cooperation.	Yes	<ul style="list-style-type: none"><li>• Constitution of Peoples Republic Bangladesh.</li><li>• Children Act 2013</li><li>• Children Policy 2011</li></ul>
Recognize right to life; survival and development.	Yes	Constitution guarantees fundamental rights and freedoms .
Right to registration at Birth.	Yes	Registration of births and deaths Act 2004;

# Compliance of CRC

CRC Provisions	Compliance	Evidence
Preservation of identity: 1.name, nationality, and family relations; 2. Assistance and protection if deprived	Yes	Nationality Act 2009
Right to contact with parents  Family reunification	Yes	Domestic Violence Act 2010 National Children Policy 2011
Trafficking: measures to combat kidnapping and conclude bilateral & multilateral agreements	Partial	Human Trafficking Deterrence & Suppression Act 2012

# Compliance of CRC

CRC Provisions	Compliance	Evidence/Comments
1. Freedom of thought, conscience, religion; 2. Respect right of parental guidance; 3. Limit to freedom of belief subject to law, public order, fundamental rights of others	Partially	Reservation on Article 14 .1 of CRC.
Freedom of association, peaceful assembly; restrictions of law, public order	Yes	National Child Policy 2011

# Compliance of CRC

CRC Provisions	Compliance	Evidence/Comments
Right to privacy: 1. No arbitrary or unlawful interference with privacy, family, home, correspondence; 2. right to protection against interference.	Yes	National Child Policy 2011 Control Act 2012 Information and Communication Technology Act 2006.
Right to access to information to promote social, moral and mental well-being.	Yes	Right to Information Act, though Respect for minorities is inadequate



# Compliance of CRC

CRC Provisions	Compliance	Evidence/Comments
Right to protect the child from all forms of physical or mental violence, injury or abuse, negligent treatment, maltreatment or exploitation, including sexual abuse	Yes	The Women & Children Repression prevention Act 2000 (amended in 2003) The Children Act 2013
Right of disable child to enjoy a full and decent life, in condition which ensure dignity, promote self-reliance and facilitate the child's active participation in the community	Yes	Rights and Protection of the Persons with Disabilities Act 2013  Neuro –Developmental Disability Protection Trust Act 2013.

# Compliance of CRC

CRC Provisions	Compliance	Evidence
Rights to health and to facilitate for the treatment of illness and rehabilitation of health.	Partially	Constitution of Bangladesh
Rights to education on the basis of equal opportunity.	Yes	The Compulsory Primary Education Act 1990 The National Children Policy 2011 National Child Labour Elimination Policy 2010
Recognition of rights of the ethnic, religious or linguistic minorities.	Partial	Small Ethnic Group Cultural Institution Act 2010 The National Children Policy 2011

# Compliance of CRC

CRC Provisions	Compliance	Evidence
Rights to protect from all forms of sexual exploitation and sexual abuse	Yes	Women & Children Repression Prevention Act 2000 (amended 2003) Children Act 2013
Prevention of sale, trafficking and abduction of children	Yes	Human Trafficking Deterrence & Suppression Act 2012
Administration of Juvenile Justice	Yes	Children Act 2013 3 Child Development Center( 2for boys & 1 for girls)

# UPR and Bangladesh

- First cycle of UPR review of Bangladesh was made by Human Rights Council in February 2009.
- NHRC submitted the stakeholders report in 2012 to the Human Rights Council.
- In the 2<sup>nd</sup> cycle of UPR review in 2013 Bangladesh received 12 recommendations on child protection and juvenile justice from 97 member states of UN.
- Some of these recommendations have already been fulfilled and the rest are in pursuance with the Govt by NHRC and NGOs.

# UPR Recommendations on Child Rights

UPR Recommendations	Progress Made and Action Required
Appointing a Child Ombudsman as per CRC recommendations.	NHRC is advocating for enactment of legislation and establishment of office of the <b>Child Ombudsman</b> .
Sign and ratify the new Optional Protocol to CRC on communications procedure.	NHRC along with other Civil Societies perusing with the govt. to ratify CRC-OP III.
Continue efforts to harmonize its normative framework with international human rights norms to which the country has acceded, particularly those concerning the rights of the child.	Children Act 2013 enacted and defined the age of child as 18.  But still there is inconsistencies in other laws.

# UPR Recommendations on Child Rights

UPR Recommendations on CRC	Progress Made and Action Required
Raise the age of criminal responsibility for juvenile offenders to at least 12 years, in line with the CRC's general comment.	NHRC recommended to raise the minimum age of criminal responsibility to 9 to 12 in its UPR Stakeholders Report in 2012. NHRC is still perusing with the govt.
Strengthen measures in order to ensure that all children have a valid birth certificate	The Birth Registration Act 2004 provides that birth registration of a child is to be completed within 45 days. Online Birth Registration System is established in 2009
Efforts to protect children from early and forced marriages	NHRC submitted a draft legislation to govt. to restraint Child Marriage by fixing minimum age 18 for both girls and boys and enhance the punishment from 1 month to 3 years.

# UPR Recommendations on Child Rights

UPR Recommendations on CRC	Progress Made and Action Required
Combat the sale and trafficking in children and strengthen partnerships with all stakeholders.	<b><i>The Human Trafficking Deterrence and Suppression Act, 2012:</i></b> was passed in 2012 and A National Plan of Action (NPA) has also been formulated to implement the Act. NHRC is working to create awareness in order to prevent trafficking particularly for

# Legislation in Preventing to VAC

## **Special Laws to protect children from violence:**

- Women & Children Repression Prevention Act 2000 (amended in 2003)
- The Domestic Violence (Prevention and Protection) Act, 2010
- The Human Trafficking Deterrence and Suppression Act, 2012
- The Pornography Control Act, 2012
- The Children Act 2013
- DNA Law 2014
- The Information and Communication Technology Act 2006



# Legislation in Preventing to VAC

Some Special Provisions under Children Act 2013 for children who came in contact with law:

- Provision for reasonable measures to ensure the security of child victim
- Not to disclose the identity of victim to avoid stigmatization for the best interest of child.
- Separate trial from adults.
- Camera trial.
- Provision for Video conference.
- Presence of the child in the court who came in conflict with law can be dispense.

# Legislation in Preventing to VAC

## **Other Measures:**

- Special Tribunals
- One Stop Crises Center in a medical college to provide comprehensive package supports to victim of violence.
- Victim Supports Center in Police Stations.
- Government & non government safe home.
- Rehabilitation & reintegration program.

# Legislation in Preventing to VAC

## Other Measures:

- 24/7 national hot line: 10921.
- Special monitoring cell in Police Headquarter for trafficked victims
- Rescue, Release and Recovery (RRI) Taskforce in Ministry of Home Affairs for cross border trafficking victims.
- Legal aid services.

# Diversion and Alternative measures:

## **Divert a child in conflict with the law from what?**

It is a process of removing a child in conflict with law from the formal criminal processes through alternative procedures and programmes. It is a form of disposition in the Juvenile justice system that replaces the normal process with accepted community based interventions that may be formal or informal.

80% of Children will commit one offence in their life time  
90% of the juvenile who came in contact with Police will not commit further offence – UNICEF STUDY

FIRST TIME OFFENDERS .....  
REPEATED OFFENDERS  
CONVICTED OFFENDERS  
CHILDREN at RISK of OFFENDING

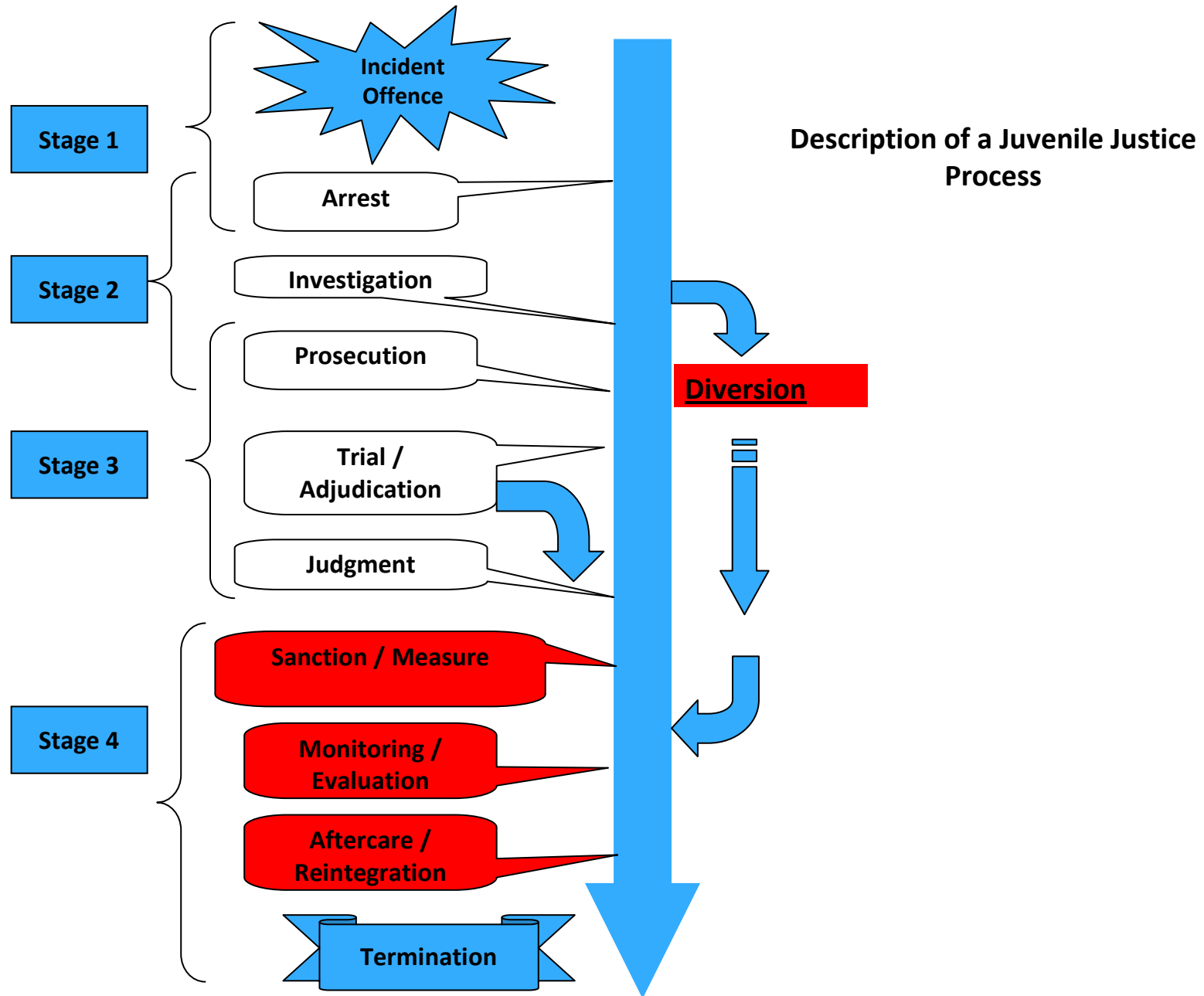
## Diversion – International Rules

### Beijing Rules 1985, Rule 11. Diversion

- 11.1 Competent authorities shall avoid formal trial in appropriate cases when dealing with juvenile offenders
- 11.2 The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings.
- 11.3 Diversion shall require the consent of the juvenile, or her or his parents or guardian.
- 11.4 Efforts shall be made to provide for community programmes, such as temporary supervision and guidance, restitution, and compensation of victims, to facilitate the discretionary disposition of juvenile cases, .

# Conditions of Diversion

- i) Diversion option is used where a child admit voluntarily to an offence and accept a non-judicial hearing.
- ii) Diversion must not be mandated to order deprivation of liberty in any form.
- iii) The case must be referred to a normal court system if no solution acceptable to all can be reached or if the options at the disposal of the alternative system are not appropriate.
- iv) The child offender always retains the right to a court hearing or judicial review.
- v) Human rights and legal safeguards in general must always be fully respected.



**Thank You**