

Promoting Child Rights



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Absence of adoption law triggers illegal baby trading

Ten percent couples unable to bear children are target customers

SHAHEEN MOLLAH

In the absence of an adoption law, illegal buying and selling of babies have become an established business in Dhaka and outside.

Stories of trading babies got the national attention when in 2006, law enforcers rounded up 14 children from former Deputy Inspector General Anisur Rahman's residence. Rahman claimed that they were all his children. But as seven of these 14

children were of about the same age, the issue underwent further investigation.

After DNA tests confirmed that none of the seven children were related to each other or to Rahman, a court decided that Rahman and his wife had stolen the seven children with an eye for trafficking them abroad.

Here lies the big fear in the dynamic; that children are being exploited and trafficked. It appears, however, that there is possibly a simpler and more

humane motive behind the matter.

Ten percent of couples are unable to have children of their own, according to former chief of the Gynaecology department at Dhaka Medical College Hospital (DMCH), and such couples are buying babies to raise as their own.

There are three broad groups in the system -- buyers, sellers and middle men.

Buyers are of all types. Some are rich, some poor, most are

incapable of having children while some already have enough but want more.

Sellers are a far more select group. Poor women often homeless and/or sex workers desperate to make ends meet make up the bulk of mothers willing to sell their children.

Finally, there are middlemen who seek out vulnerable women and for a fee (usually much higher than what the actual mother is paid) arrange to find young children a new family.

The late Moushimi Begum, who ran Moushimi Clinic on Nazimuddin Road said that her clinic had arranged 24 off-the-book adoptions five years ago. She felt that she was doing something good. The mothers of those children were fully informed of the situation, and were not in an economic situation to provide well for the children they chose to give up, while the buyers were better equipped to be parents and desperate for children.

Moushimi added that she made very little money from the transactions, and felt the arrangements she made were the best for all concerned parties.

One of the central hubs for this type of deal is DMCH. As the largest public hospital in the country, many poor, pregnant women go there some even for abortions.

A hospital source said that a network of attendant ayas, some nurses and other hospital staff approach vulnerable, expectant mothers and attempt to persuade them to part with their unborn children. Typically, mothers and their relatives -- are shown the disadvantages of keeping the baby and the advantages of selling them.

What laws say of adoption

COURT CORRESPONDENT

The Islamic Law does not recognize adoption as a filial mode. So it does not allow Muslims to adopt any child. On the other hand, adoption is recognized by the Hindu Law.

According to the provisions of the Mohamedan Law, no Muslims can adopt any child while the Hindu Law allows a Hindu of sound mind who has attained the age of discretion, to either himself adopt or delegate the power to adopt to his wife.

However, according to the provisions of the Guardians and Wards Act, 1890, if any Muslim wants to be a guardian of any child, he or she has to go to the Family Court for getting a guardianship certificate.

So according to the provisions of the Guardians and Wards Act, a judge of any Family Court across the country, can allow any Muslim to become a legal guardian of the person and property of any child.

The source added that this was a fairly common practice with about one or two such cases occurring a month; but it was difficult to catch the perpetrators since the final exchange of the child occurs after the mother has been discharged from the hospital's care.

Other methods of arranging transactions centre round areas with a large concentration of homeless women. Middlemen search for pregnant women in areas such as Osmani Uddyan (park), Kamalapur Railway Station and Gulistan Stadium area. They then persuade the women to sell their babies, promising support in the meanwhile.

The price of a baby has gone up over time. Five years ago, Tk. 9,000 to 15,000 was sufficient. Today, the price ranges from Tk. 10,000 to 50,000. This is due to a

series of arrests and raids on clinics arranging child selling over the last three years.

One three-month pregnant woman named Rupa, found a host of middlemen bidding against each other for her unborn child. She finally chose a comfortable arrangement in which all her expenses were taken care of for the remaining six months of her pregnancy, as well as a further two months after it.

The big fear remains what becomes of these children? Deputy Commissioner at the Dhaka Metropolitan Police Masudur Rahman says that though stories of trafficking are common, there is little evidence to support it. Rahman maintains that the entire operation is more like organised, illegal adoption, but opines that as it is illegal it should be punished.

PANKAJ KARMAKAR

The government has no immediate plan to establish a separate Department for Children although three years have passed since the UN Committee on the Rights of the Child recommended to set up a Department for Children to protect their rights.

"We are giving priority to strengthening the Shishu Academy instead of establishing a separate department for children," said Tariq-Ul-Islam, secretary of the Ministry of Women and Children Affairs.

The government might take initiative to set up the separate department for children in future, he said.

However, child rights experts criticised the government's move saying the Shishu Academy mainly runs activities for cultural development; it will not be able to protect all the rights of children.

The child rights issue will not get emphasis until the separate department is established. The department is essential for addressing the child rights issue with a holistic approach, said Shamsul Alam, deputy director (child rights governance) of Save The Children, Bangladesh country office.

"The main purposes of Shishu

Academy are to flourish the inbuilt cultural talents of children and to engage them in different cultural activities, that do not cover the whole range of rights of children," said an official of Bangladesh Shishu Academy seeking anonymity.

Despite the importance of a separate department, the government is not taking any initiative to establish the department due to 'invisible' reasons, he said.

An assistant director of the

for protecting child rights.

"I think it is better to strengthen and expand the activities of Shishu Academy because the institution already exists. It is a complicated task to set up a new department," said Tariq-Ul-Islam. Bangladesh Shishu Academy has its branches in every district and in six upazilas. Now, the government is planning for setting up its branches in every upazila across the country, he said.

Realising the importance of a

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academy said, "Several ministries and government bodies work for child rights. But a department is important for coordinating among government bodies and NGOs for effectively protecting child rights."

However, the secretary said currently the activities of Shishu Academy are not confined in cultural development, rather it also runs different sorts of activities

separate department for children, Falguni Hamid, a former director of the Shishu Academy, during her tenure in 2011 sent proposal to the ministry to establish it.

Following the proposal, the ministry formed a five-member committee headed by the ministry's joint secretary Golam Kibria to work for setting up the department. The committee also held two or three meetings. After that,



PHOTO: SK ENAMUL HAQ

there was no progress and the issue lost in oblivion.

"I think the ministry does not have any positive response to the issue. My observation is, not only a department, rather there be a separate ministry for children," said Falguni Hamid.

The government has to submit a report in every five years highlighting the progress made to implement the UN Convention on the Rights of

the Child since Bangladesh ratified the convention in 1990.

The government submitted its fifth periodic report on October 20 this year, while the third and fourth periodic reports were submitted together in August 2007. Following the third and fourth periodic reports, the UN Committee on the Rights of the Child made a Concluding Observations report in June 2009.

In its concluding observations, the committee strongly recommended to establish the Department for Children to end duplication and overlapping among the activities of Ministry of Women and Children Affairs, National Council for Women and Child Development (NCWCD) and other governmental bodies and to enhance coordination among those.



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FILE PHOTO: STAR

Poverty breeds desperation

STAFF CORRESPONDENT

For a poor woman like Putali Begum in a cruel city like Dhaka, sometimes the only way to stay alive is to sell one's child.

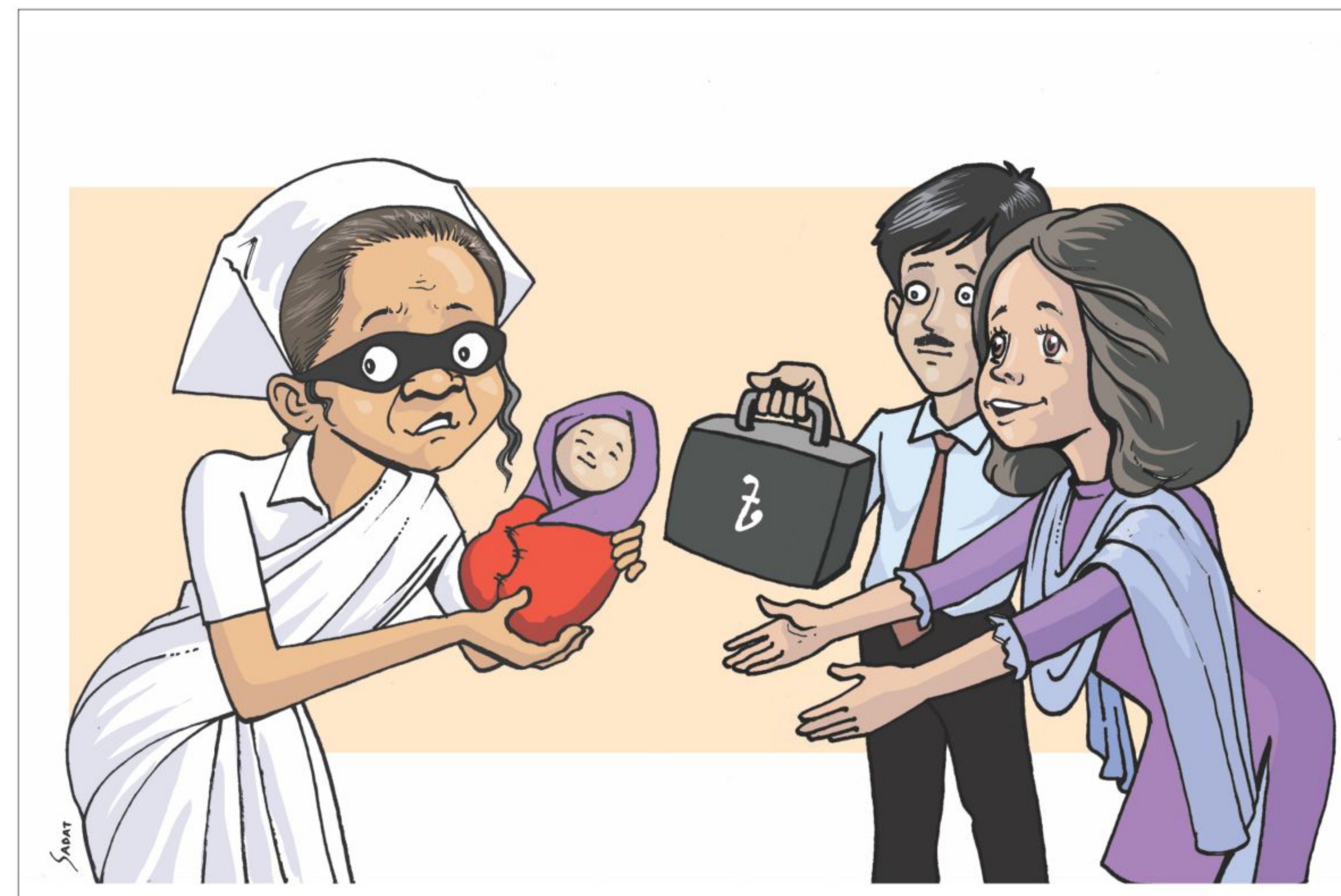
Putali says she almost became insane with a cocktail of grief, regret and pain after selling her one-and-a-half-year old son Shuvo two years ago out of sheer desperation for survival.

Four years ago, Putali's heroin addicted husband was jailed, leaving the homeless woman with two young children to provide for all by herself. Barely scraping by, Putali says that she was approached by a police officer who told her that he would be the middleman in the deal to buy Putali's son.

The officer calculated that the figure of Tk. 8,000 would allow Putali to free her husband from prison, and the desperately helpless woman agreed to the sum. She admits that releasing her husband was not her only motive and that she just could not manage to care for two children alone.

Nonetheless, after the transaction was completed, Putali almost fell apart in the face of what she had done even though, as promised, she was able to secure her husband's freedom.

Two years later, Putali can still be seen roaming in the park. The birth of two more children since has believably eased her pain, but she is not above admitting that even to this day, she is still visited by the guilt of selling her beloved Shuvo.



Ombudsperson for children

An institution felt imperative

STAFF CORRESPONDENT

Although the government in its National Children Policy, 2011 has created the legal provision to appoint an Ombudsman for children to contribute to their welfare and rights, no visible progress has been made in this regard, child rights experts say.

The issue has been kept confined to file till now in the ministry, they viewed.

"Whenever there is an opportunity to talk with the top level ministry's officials, we raise our demand for appointing the ombudsperson. They assure us to do the same immediately, but we see no implementation of the promise," said a child rights expert seeking anonymity.

Ombudsperson offices are often referred to as Independent Human Rights Institutions. An ombudsperson or ombudsman means "Representative". Other words sometimes used to refer to a similar role include: Commissioner, Bureaux, Mediator, and Defender.

An ombudsperson is an individual who acts as a "citizen defender", dealing with complaints from the public about injustice and maladministration by government agencies. Some ombudsperson receive complaints from individuals and might have the authority to mediate between citizens and authority. Others might have the power to bring cases to court.

The roles of an ombudsperson for children are to promote and protect the rights and interests of



PHOTO: STAR

Ombudsperson offices are often referred to as Independent Human Rights Institutions... The roles of an ombudsperson for children are to promote and protect the rights and interests of children, improve access to existing rights and promote recognition of human rights not yet embodied in legislation or practice.

children, improve access to existing rights and promote recognition of human rights not yet embodied in legislation or practice.

An ombudsperson for children is important as children are vulnerable to human rights violations and are dependent on adults, they have no vote and no access to lobbies that influence government agendas, they have

limited access to complaints mechanisms, legal systems and courts and for many other reasons.

The UN Committee on the Rights of the Child, the body responsible for monitoring the implementation of the UNCRC, has consistently emphasised the vital role of children's ombudspersons in monitoring, promoting and protecting chil-

ren's rights. It has encouraged state parties to the UN Convention on the Rights of the Child (UNCRC) to develop independent human rights institutions for children, which should be given a broad mandate in law, specific functions, powers and duties relating to children and their rights as per the UNCRC.

Why establish an Ombudsperson?

- To improve the performance of public administration
- To improve government accountability to the public
- To improve citizens' access to the administration

Some essential characteristics of an Ombudsperson include:

- Independence from the government: an ombudsperson should stand above party politics, be totally impartial and fair and be able to criticise and make recommendations (See also the Paris Principles)
- Broad powers to investigate: ombudsperson must be free to look into any issue that falls within their mandate without prior approval from the authorities.
- Offices must be adequately resourced, free from government financial control and able to handle complaints free of charge.

Activities of an Ombudsperson for children

These would include:

- Influencing policy makers and practitioners to take greater account of the rights of children
- Providing a voice for children and a channel of communication between children and government
- Ensuring that children have effective means of redress when their rights are violated
- Monitoring the government's compliance with the CRC (article 4), including monitoring the government's reporting obligations, and producing a supplementary report to the official State party report
- Raising awareness of child rights among children and adults by producing and disseminating information about children's rights and the UNCRC, training professionals working with children, working with the media to increase awareness, etc.
- In their work, Ombudspersons should ensure that:
 - Their work is directly informed by the views of children;
 - The views of the children are reflected in proposals, reports, responses, research and strategies;
 - Structures are established through which children's views can be directly and effectively represented.