

The background of the cover features a close-up, slightly blurred view of several books and stacks of papers. The books have various colored spines, including blue and brown. The pages are mostly off-white or light beige, showing some signs of age. The lighting is dramatic, with strong highlights and deep shadows, creating a sense of depth and texture.

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THE COERCED CAREER CHOICE ON CHILDREN & SENSE OF 'EPISTEMIC INJUSTICE': BANGLADESH IN CONTEXT

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There is a tendency among the Bangladeshi parents to impose their choice on the children and perhaps the scenario is more or less same across the globe. They insist their children to become what they want, to choose a career what they think would be good not only for the children but also for them and the family. The usual argument is that there none else than the children in question in the family to be this and that. As a result, the parents tend to ignore the children's choice and refuse to know what they want; exclude their knowledge in decision making, and thus their voices are never heard. Given this scenario, this article unveils how the coerced choices of career by the parents upon the children without considering their knowledge in decision making results in what Miranda Fricker would call "epistemic injustice". It also shows that such epistemic injustice is also visible in the case of children with intellectual disability. In doing so, the article reveals how the children's age in the case of children in general and both (intellectual) disability and age in the case of children with intellectual disability become prejudices in causing epistemic injustice. The article also focuses on how this kind of epistemic injustice impacts the children's well-being by causing the feeling of denial and exclusion. It also divulges how the coerced career choice by the parents resulting in epistemic injustice also goes against statutory laws of Bangladesh and its obligations under the Convention on the Rights of the Child. Finally, the article concludes by providing recommendations on how to consider children's knowledge in decision making of career choices and thus to ensure the "best interest" of the children.

INTRODUCTION

"Abbu, I gave you my word that I will achieve GPA-5, but failed. Please forgive me."¹--- (A suicide note of an SSC student '17)

A number of 1,35,898 students achieved GPA-5 in 2020 which is the highest number of GPA-5 achievers in Bangladesh to date.² While achieving good results denotes how Bangladesh has been doing great in the educational sector, there is another side of the coin -- most often the tendency to achieve good results originates from the parents' obsession with ensuring a better career³ namely the Big- 4: Law,

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¹ Syed Mohammad Shoeb, 'The Cost of Parental Pressure', *The Daily-Sun*, Dhaka, 10 May 2018, available at <https://www.daily-sun.com/arcprint/details/307720/The-cost-of-parentalpressure/2018-05-10>, accessed on 25 May 2021.

² Ershad Kamol, 'Record students get GPA-5', *New Age Bangladesh*, Dhaka, 31 May 2020, available at <https://www.newagebd.net/article/107327/record-students-get-gpa-5>, accessed on 26 May 2021.

³ Towheed Feroze, 'When Social Pressure Kills', *Dhaka Tribune*, Dhaka, 7 May 2017, available at

Medicine, Engineering and Finance. The failure of achieving a good result which sometimes, as you can see in the above, results in the suicide of the students. Because s/he failed to achieve good results in a certain grade, s/he failed the parents' expectation in ensuring a so-called better career. The scenario perhaps mirrors other parts of the world as well. But lamentably, children are hardly asked in choosing what career they would like to pursue; which subject/area they find interesting. On top of that, even if the children willingly come to their parents in expressing which subject, they might like in pursuing their career, their opinions are often disregarded. After all, they are children: childish, immature, sweet! Hence, I will argue in this article that when children's voice is marginalized in deciding career choice due to the prejudice of the parents, this results in what Fricker would call epistemic injustice. I will identify that such epistemic injustice is also visible in the case of children with Intellectual disability. I will begin my discussion by taking into account mainly Fricker's understanding of epistemic injustice. I will argue how the prejudice: children's age and intellectual disability becomes the catalyst in causing epistemic injustice and leads to marginalization of children's voice in the context of career choice. In doing so, I will mainly focus on the school-going children aged between 7-17.⁴ I will also identify the conditions that make the epistemic injustice an injustice in the context of coerced career choice. The discussion will also be focused on how this kind of epistemic injustice impinges on the children's mental health by causing the feeling of denial and exclusion. It will also divulge how the coerced career choice by the parents resulting in epistemic injustice goes against the statutory laws of Bangladesh and its obligations under the Convention on the Rights of the Child as well as the Convention on the Rights of Person with Disabilities. Finally, the article concludes by providing recommendations on how to consider children's knowledge in decision making of career choices and thus to ensure the 'best interest' of the children.

<https://www.dhakatribune.com/opinion/op-ed/2017/05/07/social-pressure-kills>, accessed on 25 May 2021.

⁴ The reason for choosing this particular age group is most children develop their rationality and emotional capability around the age of 6/7. Harry Brighouse, 'How Should Children be Heard?', *Arizona Law Review*, p.1, volume 45:3, pp. 9. Salter also states that "obviously, much of a child's capacity for autonomous decision making depends on age. A baby has very little capacity for understanding, appreciating, and reasoning with information. A 15-year-old, on the other hand, might demonstrate a relatively high level of capacity relative to an average adult." Erica K. Salter, 'Deciding for a child: a comprehensive analysis of the best interest standard', *Theoretical Medicine and Bioethics*, p. 179, volume 33, pp. 180.

UNDERSTANDING 'EPISTEMIC INJUSTICE'

Epistemic Injustice occurs when a prejudice based on race, sex, gender etc. on the hearer's part unfairly discriminates the speaker against his/her capacity as a knower.⁵ In distinguishing 'epistemic injustice', Fricker provides two types of injustices: one is testimonial injustice, and the other is hermeneutical injustice.⁶ Testimonial injustice occurs when a person is given less credibility due to the prejudice⁷ on the part of the hearer whereas hermeneutical injustice occurs "when a gap in collective interpretive resources puts someone at an unfair disadvantage when it comes to making sense of their social experiences".⁸ Fricker delineates that "identity-prejudicial credibility deficit"⁹ becomes central to the testimonial injustice because such testimonial injustice is sustained by a speaker only when the prejudice in the hearer leads to the credibility deficit of the speaker. Now the question arises what is a prejudice in the hearer mind when it comes to the credibility of children?

Morris argues that age can be a ground for credibility deficit since age becomes a decisive factor in determining to what extent the hearer's testimonial credibility should be afforded.¹⁰ When a child is excluded from the decision making of his/her career based on the prejudice that they are immature, childish, etc., this is what would Fricker call testimonial injustice due to the identity prejudice in the parents. Baumtrog and

⁵ Morten Fibieger Byskov, 'What Makes Epistemic Injustice an "Injustice"?', *Journal of Social Philosophy*, p. 116, volume 52:1, pp. 116-117.

⁶ Miranda Fricker, *Epistemic Injustice: Power and Ethics of Knowing*, Oxford University Press, Oxford, 2007.

⁷ The idea of prejudice is the idea of a pre-judgment where such judgment is made without having any regard to the evidence and that's why prejudice is "epistemically culpable". Fricker contends that "Prejudices are judgments, which may have a positive or a negative valence, and which display some (typically, epistemically culpable) resistance to counter-evidence owing to some effective investment on the part of the subject". Negative Identity Prejudice (shortly identity prejudice) is what interests Fricker in the context of testimonial injustice and it is the most problematic one. Identity prejudice that influences the hearer's (the children) credibility judgment owes its root the identity power. In that case, identity power (let's assume parents' identity here) not only control what the other party does but also resists others (the children) from conveying knowledge "in a way that depends upon collective conceptions of the social identities in play". *Ibid*, pp. 28, 35.

⁸ Fricker (n 6), pp. 1.

⁹ Fricker's identity credibility deficit mainly focuses on race and gender and hence three might be an objection to the extension of childhood as social identity. Because one might argue that childhood is not a "social identity" rather a biological one. In this regard, Burroughs and Tollefsen relate childhood as social identity can be of some help. Burroughs and Tollefsen contend that childhood (what it means to be a child) is determined by both historical and cultural interpretations of the child's biological immaturity in various ways. In this sense, childhood is a socially constructed social identity. Such social identity of children not only determines the appropriate actions for a child as opposed to an adult, but it also determines in which discussion a child should be included. And none of these is determined by biological factor but the historical and cultural interpretations of "what it means to be a child". See Michael D. Burroughs and Deborah Tollefsen, 'Learning to listen: Epistemic injustice and the child', p.359, volume 13:3, 2016, pp. 365.

¹⁰ Karin Morris, 'The Epistemic Challenge of Hearing Child's Voice', *Studies in Philosophy and Education*, p. 245, volume 32:3, 2013, pp. 249.

Peach identify that the children face epistemic injustice because of the “systematic identity prejudice”.¹¹ They also contend that without taking into account the empirical evidence and jumping to a conclusion that "child is immature" is certainly an identity prejudice.¹²

DOUBLE IDENTITY PREJUDICE: AGE AND (INTELLECTUAL) DISABILITY

In addition to the ‘identity prejudice’ that children (in general) face, Kalmen, Lovgren and Sauer argue that intellectual disability is also an identity prejudice.¹³

Here, I submit that it becomes 'double identity prejudices': one for being a child, and the other for having an (mild) intellectual disability when it comes to the child with (mild)¹⁴ intellectual disability. It can be better understood from Murriss's identification of the double disadvantage that a black child faces.¹⁵ He draws this example from his own experience while he was a supervisor at a school in South Africa. He found that the most typical assumptions about the black children by the white teachers and other Indian teachers are as follows: ".....They are children, and they are *black*, therefore know little, and the knowledge they do have does not count as it is irrelevant to the official curriculum."¹⁶ Here a black child faces epistemic injustice because of what I call "double prejudice" towards the black children on the hearer part: Firstly, they face epistemic injustice because they are children and secondly, they face epistemic injustice because they are black.

However, Murriss identifies here that the black children face two kinds of epistemic injustices that renders the black children suffer from double disadvantages. The black children face testimonial injustice when they are regarded as non-credible because they are (black) children: childish, immature, unreliable and they face hermeneutical injustice

¹¹ Michael D. Baumtrog and Harmony Peach, 'They can't be believed: children, intersectionality, and epistemic injustice', *Journal of Global Ethics*, p. 213, volume 15:3, 2019, pp. 216.

¹² Ibid.

¹³ Hildur Kalman, Veronica Lövgren, and Lenart Sauer, 'Epistemic Injustice and Conditioned Experience: The Case of Intellectual Disability', *Wagadu*, volume 15, 2016. pp. 63–81.

¹⁴ The reason for choosing mild intellectual disability is that Fricker's 'epistemic injustice' becomes limited when it comes to severe intellectually disabled persons whose communication does not go beyond mere expressions. Catala identifies that the existing literature on epistemic injustice suffers from the inadequacy of epistemic agency since it is based on a "logocentric conception of epistemic agency": mainly focused on the verbal language and reason and hence it disqualifies the epistemic agency of severe intellectually disabled children. Hence, for the remainder part of this article, "intellectual disability" should always be read as (mild) intellectual disability. Amandine Catala, 'Metaepistemic Injustice and Intellectual Disability: a Pluralist Account of Epistemic Agency', *Ethical Theory and Moral Practice*, p. 755, volume 23, 2020, pp. 756.

¹⁵ Murriss (n 10), pp. 256-257.

¹⁶ Ibid, pp. 256.

due to the social experiences they have that render them intelligible¹⁷ Now the children with intellectual disability also face "double disadvantages": they face testimonial injustice when their capacity as knower is undermined because of the prejudice that they are (disabled) children and they face hermeneutical injustice when they fail to interpret their own experiences due to the paucity of hermeneutical resources.

EPISTEMIC INJUSTICE IN THE CONTEXT OF COERCED CAREER CHOICE

"Why epistemic injustice is an injustice?" To answer the question, I take into account the conditions provided by Byskov. Byskov identifies that five conditions make epistemic injustice an injustice. He takes into account the two conditions: (a) the disadvantage condition, (b) the prejudice condition identified from Fricker's arguments and he additionally adds three conditions: (c) the stakeholder condition, (d) the epistemic condition and (e) the social justice condition.¹⁸

The first condition that Byskov identifies from Fricker's argument is the disadvantage condition: a person would be considered as "unjustifiably discriminated" in his/her capacity as a knower, If he/she must suffer "epistemic and socio-economic" disadvantages resulting from such discrimination.¹⁹ When the children are excluded from the decision making of career choices, they are discriminated against based on their identity and it may lead them to suffer from socio-economic disadvantages. Here, we can take into account the example given by Islam: Rakib always wanted to be a writer and film director since his childhood. But his parents wanted otherwise. They coerced him to be an engineer so that he had a secured future. Accordingly, when Rakib chose engineering as his undergrad study, he found the books and lectures of engineering morbid. As a result, he started cutting poor marks in the exams and finally passed with a poor grade.²⁰ Now, this poor grade may lead him to unemployment and accordingly, he will face both social and economic disadvantages. However, the disadvantage condition is interlinked with the prejudice condition. According to the prejudice condition, the epistemic disadvantage is unfair if it is based on prejudice. In the context of career choice, children's age becomes the main culprit which results in

¹⁷ Ibid, pp. 257.

¹⁸ Byskov (n 5), pp. 118-119.

¹⁹ Ibid, pp. 119-120.

²⁰ Sariful Islam, 'Should Parents impose career options in their children', *The Daily Sun*, Dhaka, 23 March 2018, available at <https://www.daily-sun.com/magazine/details/297104/Should-Parents-Impose-Career-Options-On-Their-Children-/2018-03-23>, accessed on 29 May 2021.

unfair judgment about epistemic capacity: since s/he is a child, s/he hardly knows what would be best for him/her. In the case of a child with intellectual disability, both his age and intellectual disability becomes the prejudices on the hearer's (the parents) part. Thus, a child is hardly considered as someone who can express what will be best for him as a career choice.

Another condition provided by Byskov is the stakeholder condition: a person, as a knower, to be considered as someone who would face "unjustifiable discrimination" must show that they have "direct stake" in the decision's outcome and they have been affected by such decision's outcome as they have been excluded and denied in having influence in such decisions. Now, choosing a career and participating in decision making regarding career choice is undoubtedly significant for children since it will tend to impact children's future. However, Byskov argues that stakeholder condition is not enough to be epistemic injustice and thus he provides another condition: epistemic condition, which works with stakeholder condition. The epistemic condition requires that the excluded group or individual must have relevant knowledge regarding the decision in order to have the potential to be an epistemic injustice. In the context of career choice, when the children share their feelings to be, say, for example, a musician rather than a doctor that their parents coerce to be, this is an important relevant knowledge and it should be considered while choosing the career of the child. But the problem arises when the parents tend to deny children's idea to be a musician as "knowledge"²¹ due to the identity prejudice²²; their denial to accept that their knowledge can also be limited and they can also learn from the children.²³ Thus, they do not consider the children's testimony credible and deny their testimony thinking that, as Schües puts it: "She is just a child! She must have gotten it wrong! Too much Imagination"²⁴. As a result, the children not only march towards a wrong career choice

²¹ Here we can consider the example of epistemic injustice that happens in an educational institution provided by Kotzee. He states that the reason for less credibility given to a particular learner or perhaps children in general by a teacher (consider parents) is probably the existing dominant culture where the 'adult' mode of thinking gets privilege and leaves children in an unfair "epistemic disadvantage". See Ben Kotzee, 'Education and Epistemic Injustice', in, *The Routledge Handbook of Epistemic Injustice*, 2017, pp. 326.

²² Carel and Györfy identify that the presumption of irrationality, less reasoning power, weak memories and easily influenced nature of a child causes the testimonial injustice in the case of children. Apart from the child's testimony, the interpretative frameworks of children are also easily rejected by adults. Moreover, in case of a clash between adult's interpretative frameworks and children's interpretative frameworks, the interpretation of adult always prevails over the children's one. See Havi Carel and Gita Györfy, 'Seen but not heard: children and epistemic injustice', *The Lancet*, p. 1256, volume 384:9950, 2014, pp.1256-1257

²³ Murrin (n 10), pp. 250-251.

²⁴ Christina Schües, 'Epistemic Injustice and Children's Well-Being'. In Johannes Drerup, Gunter Graf, Christoph Schickhardt, Gottfried Schweiger (eds), *Justice, Education and the Politics of Childhood*. Philosophy

but also face harmful impacts on their well-being.

THE DEVASTATING IMPACT ON CHILDREN

Fricker states that a person's capacity crucial to human value is wronged²⁵ when one is wronged in one's capacity as a knower and thus he suffers an intrinsic injustice. She also contends that a testimonial injustice²⁶ makes a speaker "qua knower" or "qua human" in the eyes of others²⁷. While this is true, epistemic injustice²⁸ can causes other harms apart from the harm of being regarded as less human. Parents imposed career choice results in the forced curricula which the children find hardly interesting. For instance, three children from Netrokona in Bangladesh ran away from the school due to their parent's berating and excessive academic pressure.²⁹ Aziz states that parents often become the major hindrance of children's successful life due to their "parents always right" attitude and over-ambition about their children. She also identifies that their unreasonable expectation results in depressive disorders of the children if they fail to fulfill the expectations.³⁰

A controlling parent can be regarded as negligent one³¹ who never considers children(with or without intellectual disability) choice and ideas regarding their career. And once a child starts growing the feeling of being neglected by the parents, it can

and Politics, Springer, New York City, 2016, p.155.

²⁵ Fricker, in this regard, states that "the primary harm one incurs in being wronged in this way is an intrinsic injustice. This harm may go more or less deep in the psychology of the subject, and I explore the idea that, where it goes deep, it can cramp self-development, so that a person may be, quite literally, prevented from becoming who they are". Fricker (n 5), pp.5.

²⁶ The testimonial injustice constituting an ethical wrong can be non-trivial yet it has profound damaging and such injustice is connected with other injustices in a systematic way. Despite having such profound damaging, the concept of (testimonial) injustice is not much appreciated. And if it were appreciated, people would be more concerned about their credibility judgment to prevent the infliction of testimonial injustice on others. Ibid, pp. 40.

²⁷ Fricker (n 6), pp. 44.

²⁸ Epistemic injustice also affects the development of child self-respect and the formation of self-stability. Giving less credibility to a child for the wrong reason will hinder his/her future development and also the development of societal relations. If the relationship of society or family is broken by an act of epistemic injustice, it will put the future generation's well-being in danger. A child's well being is dependent on ethical and epistemic justice. Schues (n 24), pp. 166.

²⁹ Ekram Kabir, 'How schools and parents destroy creativity', *Dhaka Tribune*, Dhaka, 8 March 2019, available at <https://www.dhakatribune.com/opinion/op-ed/2019/03/08/how-schools-and-parents-destroy-creativity>, accessed on 27 May 2021.

³⁰ Mehreen Aziz, 'The emotional weapon facing Bangladeshi children', *Brac Human Rights Staff Blog*, 2013, available at <http://blog.brac.net/the-emotional-weapon-facing-bangladeshi-children/>, accessed on 27 May 2021.

³¹ Ibid.

result in developmental delay, depression, low self-esteem, anxiety and so on. A study conducted on school-going children in Dhaka aged between 13 and 18 years finds that 26.5% were suffering from depression while 18.1% were suffering from anxiety.³² Additionally, the feeling of being excluded from decision making and the strict demands of parents can make a child unable to act or think independently and it creates doubt about their capabilities. The situation becomes worse when the demand for ensuring good results lead a student to commit suicide if he/she cannot meet the expectations. In 2017, about 13 students aged 16-17 committed suicide because of grade dissatisfaction.³³ However, even if a child becomes an adult and manages to enter into the career that his/her parents want, the invisible unhappiness³⁴ to be in the wrong career will always be there. Eventually, it may result in poor performance of the job, lack of creativity, sleeping problem, digestive problems, anxiety, social withdrawal, depression and so on.³⁵

THE VIOLATION OF CHILD RIGHTS?

Human rights are not designed especially for adults rather they include children too to protect their rights within its ambit.³⁶ Moreover, considering the vulnerability of children, the International Convention on the Rights of the Child has been introduced for the children so that their rights are given particular importance. The Convention on the Rights of the Child (hereinafter CRC) that has been ratified by Bangladesh is founded on four fundamental principles namely “the principle of non-discrimination, the best interests of the child, the right to life, survival and development, and considering the views of the child in decisions which affect them (according to their age and maturity)”.³⁷ Almost the same the principles have been enshrined in the

³² Md. Saiful Islam, Md. Estiar Rahman, Mst. Sabrina Moonajilin and Jim van Os, ‘Prevalence of depression, anxiety and associated factors among school-going adolescents in Bangladesh: Findings from a cross-sectional study, *Plos One*, p.1, volume 16:4, 2021, pp.1-13.

³³ Maliha Khan, ‘SSC Suicides: The Human Cost of an Education, *The Daily Star*, Dhaka, 19 May 2017, available at <https://www.thedailystar.net/star-weekend/ssc-suicides-the-human-cost-education-1407193>, accessed on 30 May 2021.

³⁴ Soma Tiwari, ‘Children’s career should never be chosen by parents for these reasons’, *Scientific Mystery*, 2019, available at <https://www.scientificmystery.com/children-career-when-forced/>, accessed on 30 May 2021.

³⁵ Sheri Jacobson, ‘The Stress of Choosing the Wrong Career Path: What now?’, *Harley Therapy Counseling Blog*, 2018, available at <https://www.harleytherapy.co.uk/counselling/wrong-career-path.htm>, accessed on 1 May 2021.

³⁶ Lucy Smith, ‘Convention on the Rights of the Child: freedom of expression for children’, In T. McGonagle & Y. Donders (Eds.), *The United Nations and Freedom of Expression and Information: Critical Perspectives*, Cambridge University Press, Cambridge, p. 145.

³⁷ Patricia Sukore, ‘Protecting the Rights of the Child in Humanitarian Situations’, *Patricia Sukore Foundation for Women and Children*, Nigeria.

Convention on the Right of Persons with Disabilities (hereinafter CRPD) and it has also been ratified by Bangladesh including the optional protocols. In an addition to that, the constitution of Bangladesh also promotes the principle of non-discrimination, equality, freedom and human rights etc. and encourages us to implement such principles in every sphere of the national life.³⁸ However, as much promising as it sounds, Bangladesh statutory legal frameworks struggle with fulfilling its obligations as per such constitutional and international legal obligations especially when it comes to children's best interest and the consideration of their voice in the context of career choice. On that note, the following discussions are intended to shed some lights in this regard. In so doing, it will firstly shows the status of child rights in terms of statutory laws and later, it will also looks into the commitment of Bangladesh towards international treaties examining within the context of career choice.

RIGHTS OF CHILDREN (IN GENERAL)

The Children Act, 2013 which has been enacted based on the Bangladesh' ratification to CRC and thereby an attempt to be complied with the principles of such convention does not necessarily include any provision that vividly speaks of consideration of a children's view in the context of a career choice other than particular focus on "child in conflict with law" as well as "child in contact with the law". However, a broader yet indirect approach can be taken as per the provisions of the Guardians and Wards Act, 1890³⁹. As per the provisions of this act, if a child is in the need of guardianship and there is a proceeding, the court may vest such guardianship upon the application as per section 8 of the Act. And if such guardianship is granted by the court, there will be some rights and responsibilities of the guardian towards the minor in question. For instance, a combined reading of section 24 and 39 reveals that a guardian⁴⁰ of a minor is required to look after his/her support, education, health and any other matters that fall within the ambit of laws to which an ward is subject to. And when such duties are not fulfilled rather if it could be inferred from the conduct of a guardian that a minor

³⁸ The preamble of the Constitution of People's Republic of Bangladesh.

³⁹ It should be noted that the guardianship of a Muslim minor child is regulated by Sharia law and the Family Court Ordinance 1985 was enacted in order to entertain the proceeding relating to the guardianship by having exclusive jurisdiction. While the Family court follows the procedure provided by the Guardianship and Wards Act, it does not necessarily consider the best welfare of the minor in deciding the guardianship. See Mazharul Islam, 'Laws regulating Guardianship of a Minor in Bangladesh', The Daily Star, 2021. Available at <https://www.thedailystar.net/law-our-rights/news/laws-regulating-guardianship-minor-bangladesh-2034-005>, accessed on 7 September, 2021.

⁴⁰ Here the word "Guardian" has been explained as any person having the care of a minor or of his property and the word "Minor" has been identified as someone who has not attained the age of majority (18 years) as per the Majority Act, 1875.

has been subject to ill treatment, absence of proper take care following by the negligence of a guardian, the court may remove such guardian. Here, the word 'education' can be explained as the education, perhaps the curricula in specific, that needs to be adaptable, suitable, and more importantly be in support of the principle of the best interest of the child in case by case basis. A coerced career contravenes the necessity of adaptable or suitable education that a child requires based on his/her interests especially when the children are forced to follow a curricula that they hardly find interesting in the race of fulfilling such imposed career goal. The devastating impact on children particularly on the mental health, as it is discussed in the previous section, unveils that such coerced career choice infringes the children right to have safe and sound health, if a guardian of a child forces him/her in pursuing a forced career.

RIGHTS OF CHILDREN WITH (INTELLECTUAL) DISABILITY

The Persons with Disabilities' Rights and the Protection Act, 2013 affirms that every disabled person shall have the right to be fully lived and developed; right to have freedom of opinion, expression and information; right to education; right to have active participation in social, economic & national level subject to the types of disability and in accessing such rights such disabled person shall not be subject to discrimination of any kind.⁴¹ Most notably, the act urges to ensure assisted mechanisms "to attain physical, mental and technical capacity in order to fully integrate in all aspects of the society".⁴² Accordingly, it can be argued here that a children with intellectual disability shall have the access to assisted mechanisms in order to fully participate in all spheres of his/her life including the decision making of a career choice. On an entirely different note, Article 28(4) of the Constitution of Bangladesh speaks of "positive discrimination" by providing "special privileges" to backward sections in order to ensure their advancement, if required. Here, the "backward sections" includes but not limited to women, children, indigenous people, etc. Therefore, the children in the context of career choice, particularly the children with intellectual disability deserve specific attention preferably some effective legal frameworks as well as policy to ensure their access to rights by protecting their best interests and thereby assuring their advancement in a society.

⁴¹ Abdullah Al Arif, 'Protecting the Rights of Persons with Disabilities', Dhaka Tribune, 2014, Available at <https://www.dhakatribune.com/uncategorized/2014/04/09/protecting-the-rights-of-persons-with-disabilities>, accessed on 7 September.

⁴² The Persons with Disabilities Rights and the Protection Act, 2013, Bangladesh, s. 16(1)n.

THE OBLIGATION OF BANGLADESH UNDER THE CRC AND THE CRPD

One of the fundamental principles of the constitution of Bangladesh is that it puts emphasis, among others, on respecting international laws and principles mentioned in UN charter with a view to promoting “international peace, security and solidarity”. Founded on that, Bangladesh ratified the Convention on the Rights of the Child back in August 1990 with some reservations. The convention provides some “unique” provisions, *inter alia*, Article 3(1) of the CRC. It provides that the best interests⁴³ of the children must be a primary prioritization for any action that concerns children and states must, in doing so, take appropriate mechanisms including reviewing or amending the domestic legal frameworks to uphold such principle, if needed. Though, parents are not apparent in Article 3(1)⁴⁴, General comment No. 14 (2013)⁴⁵ by providing particular reference to Article 18(1) reveals that child best interest will be the parents “basic concern” and hence falls within the ambit of Article 3(1). This is to say, the states are duly obliged to adopt any viable mechanisms to battle any “negative attitude” such as parent’s identity prejudice towards children that impedes the children’s best interests in realizing their rights. Now, the states, while adopting such mechanisms to ensure children’s best interests, must consider children voice and must not have any discriminatory attitude towards them as per Article 12 and Article 2 respectively.

Thus, Bangladesh in fulfilling its obligation under this convention should take some effective mechanisms i.e. reviewing, adopting or amending statutory laws, and in so doing, it shall ensure that such mechanisms notably the laws could combat the negative attitudes of the parents or guardian (in broader context) resulting in epistemic injustice in the context of career choice and reflect the best interests of the children. Such

⁴³ Schües identifies that even though the CRC emphasizes the best interest of the children, the children nevertheless are part of the family or subject to the actions of the adult. Hence, it is uncertain whether their primary importance will always be given priority and accordingly the children might become vulnerable to injustice. Schües (n 24), p.163.

⁴⁴ Convention on the Rights of the Child, 2 September 1990, 1577 UNTS 3, New York, art. 3.

⁴⁵ General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), UN Committee on the Rights of the Child (CRC), 2013.

measures, if adopted, should also not have any discriminatory attitude in accordance with the Article 2(2) of the convention especially when it comes to the conflicts of interests between parent and children in the context of career choice.

Apart from the Convention on the Rights of Child, Bangladesh has also ratified the Convention on the Right of Persons with Disabilities (CRPD) including the optional protocols. The progress that Bangladesh has undertaken in complying the spirits of the CRPD can be delineated as “slow but steady” and, on that note, the country has taken an attempt and enacted a legislation: Protection of the Rights of the Persons with Disabilities Act, 2013 following by the abolishment of the act Bangladesh Persons with Disability Welfare Act, 2001. Though the act speaks of some rights that are fundamental for the development of persons with disabilities, it doesn't explicitly ensure the best interest of the children with disability when it comes to their career choice. CRPD clearly requires, as per Article 7, that in all actions that concern the children with disabilities, State must ensure by taking necessary measures i.e. legislative, educational, administrative, the principle of “best interest” of the child.⁴⁶ Undoubtedly, career choice is one of the crucial decision that one has to take. Now, when a child's view is undermined because of the prejudice of ageism or disability and a child is imposed with a career choice that he doesn't find interesting, it is certainly not for the best interest of that children. Thus, the state must, among others, enact laws or amend the existing ones in a way so that the views of children with disabilities are not overlooked at the first place when the decision is about their career choice and perhaps by considering their views or opinions regarding their career choice the best interest of the children would be ensured.

All in all, the principle of non-discrimination, equal treatment of any person, human rights, freedom and development have been enshrined in the Constitution of Bangladesh and such principles don't necessarily exclude the children. Hence, any contravention of such principles, as it would hurt the spirit of the constitution, also unmask Bangladesh's failed attempt to comply with the international obligations that the country has committed to fulfill.

CONCLUSION AND RECOMMENDATION

⁴⁶ Ignacio Campoy Cervara, 'Legal Analysis of Article 7 of the Convention on the Rights of Persons with Disabilities: Children with Disabilities', *The Age of Human Rights Journal*, p.116, volume 9, 2017, p. 124.

In this article, I have argued that disregarding children's views in deciding their career choice results in what Fricker would call 'epistemic injustice' due to the prejudice on (the parents) hearer's part in the context of Bangladesh. In identifying 'prejudice', I have argued that ageism in the case of children in general and (intellectual) disability and ageism in the case of children with (intellectual) disabilities lead to the credibility deficit given by the parents in deciding career choice. In sensing the injustice in 'epistemic injustice', I have taken into account the conditions provided by Byskov i.e., the prejudice condition, the stakeholder condition. While I have argued that epistemic injustice has harmful impacts on the children by attributing the status of "qua-knower" or "qua-human", I have also identified that when a child fails to fulfill over-ambitious parent's expectation, they choose to end their life in extreme cases and if not, they live their whole life suffering from various mental sufferings. Also, a wrong career choice by the parents in the case of children with or without disability leads to the wastage of children's efforts and time as their views concerning the life they want to lead are not considered.⁴⁷ I have also argued why epistemic injustice resulting from the imposed career choice goes against the children's rights protected by the CRC by showing that the imposed career choice violates the best principle of children enshrined in the CRC. And the same has been argued in the case of children with intellectual disability in accordance with CRPD. That being said, I recommend that the country must adopt effective measures notably the legal ones so that the laws bind the parents or guardian to consider children's choice regarding their career and be open up to new career choices given by children. In the case of children with intellectual disability, The country must provide the parents of (intellectually) disabled children with effective mechanisms like ADM (Assisted Decision Making) so that the disabled children can make the right career choice as per their potentiality. Apart from that, the parents should not be confined in the cage of traditional thinking that a better career means only being a doctor or lawyer rather a child can be successful if his/her choices are considered. Most importantly, parents should not in ensuring a better career force the children to achieve so-called GPA-5 as many children cannot cope with the rat race of so-called better career.

⁴⁷ Anne L. Aistott, 'Is the Family at Odds with Equality? The Legal Implications of Equality for Children', *Southern California Law Review*, p.1, volume 82:1, pp.1-44.