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**"Juvenile Crimes & Juvenile Justice in Bangladesh: Time
for Re-thinking"**

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Sk. Md. Habibullah

Senior Lecturer

Department of Law,

East-West University

Submitted By:

Tanvir Ahmed

ID: 2017-2-66-003

Department of Law

East-West University

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Declaration

I am Tanvir Ahmed, ID: 2017-2-66-003 hereby declare that the dissertation entitled "Juvenile Crimes & Juvenile Justice in Bangladesh: Time for Re-thinking" submitted towards fulfilling the requirements of Course 406 (Supervised Dissertation) for LL. B (Hons.) degree by the Department of Law, East-West University. This is my original work, and no portion of it has ever been published before. This dissertation is entirely my responsibility.

Tanvir Ahmed

2017-2-66-003

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Abstract

Juveniles in Bangladesh who commit crimes and run out without any control in our society are desperately in need of control. Nothing we have ever done in the past has ever properly worked to solve the juvenile crime problem. Juvenile crime and the teen gang problem is what we call a social construction. It's been created, manipulated, and exaggerated by the politicians and governments, media, and some academics. Now it's become a self-fulfilling prophecy created into existence by the methods that we have used to understand it and the methods that we have used to tackle it and most likely to serve the interest of the politicians and governments, media, or some academics. And many kinds of ambiguity have begun to emerge from the current laws that regulate youth crime. This study is about creating youth criminals and gangs and how the justice system is dealing with the problem. Also, finding out the ambiguity in the domestic law and problems that our Judiciary has to face while punishing a juvenile offender. Lastly, some suggestions and suitable solutions are added to erase the ambiguity from the judicial proceedings. Several academics, given their thoughts and studies, have been made on the youth crime problem, yet there is a lot to share and improve. This research has the vision to find out improvements, suggestions, and solutions to the strict laws.

Chapter I

1.1 Introduction:

Juvenile crimes are currently a primary concern in Bangladesh. Our juveniles are the most valuable asset for our country's future, and we believe that they will bring lights that will erase all the darkness from society and work to create a better world. Unfortunately, the juvenile crime problem is rapidly increasing all over the country, and it is a matter of concern.¹ The Government of Bangladesh has enacted a specific law, "The Children Act 2013". That legislation is to deal with juvenile rights and crime. The positive a law approach does not allow a separate law to treat the juvenile people, which helps them feel vulnerable and creates fear in the eyes of society towards those juvenile people. The juvenile justice system in Bangladesh has evolved due to awareness that many teenagers who have run afoul of the law are victims of societal brutality and adversity. This is most alarming that delinquency rates are rising due to the centre being significant of the juvenile justice administration. The juvenile and the children in Bangladesh are subjected to retributive criminal justice, which is widely known as harmful to children's physical, social, enthusiast, and psychological development.²

1.2 Literature review:

The juvenile crimes and justice administration system is the most alarming issue for the legislation and the legal field. Because it is such a sensitive issue, there has been a great deal of effort and research done on it, but not nearly as much research has been done in Bangladesh. The most concerning topic for legislation and the legal area is the juvenile crime and justice administration system. Because it is such a delicate issue, much work and investigation have gone into it, but not nearly as much research has gone into Bangladesh. Following the existing law, self-observation and reference of numerous books, journals, and research papers were incorporated into this research. A Study On Juvenile Delinquency in Bangladesh: issues and challenges by Md.Asaduzzaman, that book has various information regarding the ambiguity in the law that deals with juvenile justice.

¹ *Juvenile Justice Administration And Correctional Services In Bangladesh: A Critical Review* ,Book by Dr. Sumaiya Khair, P: 1 (introduction) Vol. XVI (2) , Published: December 2005

² Khandaker Farzana Rahman "Towards a child-rights based juvenile justice" (8 March 2015) < <https://www.thedailystar.net/towards-a-child-rights-based-juvenile-justice-13905> > accessed 23 March 2022

“The State of Juvenile Justice System in Bangladesh” a book by Dr Nahid Ferdousi provided information regarding the Justice system of Bangladesh and the current system that deals with juvenile offenders.

The lectures on Theoretical and Applied Positive Criminology by Professor "Stephen Case" have given an overall idea about Juvenile crimes and the international aspect of solving the juvenile crime problem.

1.3. Methodology:

Every research project follows steps, and my study is primarily qualitative. Data was gathered from secondary sources such as newspapers, journals, books, articles, various publications, and government and national and international organisation reports. The principal source is judicial decisions. In this study, no quantitative data was used.

1.4. Research Question:

1. Whether the Juvenile Justice System adequate to diminish juvenile crime?
2. Whether any changes need to be made or bring in the existing juvenile justice system to reduce juvenile crime effectively?

1.5. The Objective of the Research:

The juveniles are most likely to remain in fantasy, so they sometimes ignore that they live a practical life. They also suffer from various social and family issues that lead to crime or delinquency. The main concern of my research is how the correct administration of juvenile justice may play a crucial problem in juvenile crime. In this regard, the following are the study's objectives:

1. to give a brief idea about juvenile crime and the leading causes of juvenile criminality.
2. To know about the current situation of juvenile crimes and critically observe the juvenile justice administration system in Bangladesh.
3. To find out the explicit and implicit problems behind the juvenile justice administration system.

4. To find more effective tools for implementing juvenile justice to make suggestions for improvement to a better and more effective child-friendly juvenile justice administration system.

1.6. Scope of that research:

This study is about the justification of the juvenile justice system, dealing with juvenile crimes in the reformatory approach of law, and finding alternative ways to prevent the silly crime problem.

- Finding the ambiguity in the law that deals with juvenile crimes and the possible solution to it.
- Analyzing the juvenile justice system of Bangladesh.
- This study is primarily analytical to identify the gaps in the laws to prevent juvenile crimes.

1.7. Limitation of that research:

The analysis of the juvenile justice system is the only objective of the research, but the whole justice system will not be analysed. This study only focuses on the juvenile justice system and juvenile crimes, but the children's protection and rights are not subject to that study.

Chapter- 2

2.1 Juvenile Delinquency Defined:

"Juvenile delinquency" refers to anti-social or criminal behaviour by children. Juvenile delinquency is an act performed by a young person under a certain age. Juvenile delinquency is an ambiguous term that mixes different criteria, especially those related to age, gender, race, and type of crime. But in the broadest sense, juvenile delinquency refers to young people who engage in behaviour that violates formal norms.³ Bangladesh is home to different types of people with a vast population. Children are an essential part of this population, committing crimes intentionally or accidentally, and the rate of juvenile delinquency is increasing day by day. According to the Oxford Advanced Dictionary, juvenile delinquency is defined as "a young person who is a minor and is guilty of a criminal offence."⁴

2.2. Criminological Theory Relevant to Juvenile Crimes:

There are many different theories about why people commit crimes, but most of them do not relate to the causes of juvenile crime. The criminological theory stresses that the causes of crime are located within the criminal, not in the environment. Victims are driven by rational self-interest or their ability to choose. Delinquency is one of the vital consequences of unsound decisions.⁵

2.2.1. Social disorganization theory:

There are many different theories about why people commit crimes, but most don't apply to juvenile criminality. The criminological theory stresses that the causes of crime lie within the

³ JOHN P.I. DUSSICH "Criminal Behavior and the Justice System" 1989 ISBN: 978-3-642-86019-5 <https://link.springer.com/chapter/10.1007%2F978-3-642-86017-1_5> accessed 28 March 28, 2022.

⁴ Crime in Bangladesh & the limitation of Correctional Center" <<https://www.lawyersjurists.com/article/juvenile-crime-in-bangladesh-the-limitation-of-correctional-center>> accessed 28 March 28, 2022.

⁵ Kudrat-e-Khuda "Juvenile delinquency, its cause, and justice system in Bangladesh: a critical analysis (2019) <<https://esciencepress.net/journals/index.php/JSAS/article/view/3097/1651>> accessed 28 March 28, 2022.

criminal rather than in the environment. Victims are driven by logical self-interest or their own volition. Delinquency is one of the more severe outcomes of good judgments.⁶

2.2.2. Deterrence Theory:

According to this theory, after receiving the consequences of their criminal acts, juveniles decide whether to follow or violate the law. It is difficult to prove the effectiveness of deterrence, but sometimes juvenile offenders do not come to the knowledge of law enforcement agencies.⁷

2.2.3. Psychological theory

According to the hypothesis, delinquent behaviour is caused by individual differences in mental processes. It has everything to do with a child's thoughts and feelings, which influence their behaviour. Generally, individuals think differently, and cognitive issues may lead to inappropriate behaviour, leading the juvenile to the dark world.⁸

2.2.4. Biological theory

According to this theory, there is a link between specific biological traits and an increased tendency to engage in criminal activities. This criminological approach looks at individual characteristics to rationalize actions against society's standards. According to this theory, adolescents have been fascinated with physical appearance, genetics, and inheritance. Minors may mature faster than their chronological age or experience a biological imbalance, leading to increased delinquent behaviour.⁹

⁶ Mark Bond Ed:D, "Criminology: Social Disorganization Theory Explained" (1 March 2015) < <https://www.linkedin.com/pulse/criminology-social-disorganization-theory-explained-mark-bond> > accessed 27 March 2022.

⁷ DiIulio, John J.Jr. Deterrence theory < <https://marisluste.files.wordpress.com/2010/11/deterrence-theory.pdf> > accessed on accessed 27 March 2022.

⁸ Psychological Theories of Crime: Assumptions & Weaknesses, < <https://study.com/academy/lesson/psychological-theories-of-crime-assumptions-weaknesses.html#:~:text=Psychological%20theories%20of%20crime%20say,feelings%20that%20dictate%20their%20actions> > accessed on 29 March 2022.

⁹ Student Study Guide for Criminological Theories: Sixth Edition,By Ronald L. Akers and Christine S. Sellers , OXFORD UNIVERSITY PRESS 2013

2.2.5. Different association theories

This theory examines how peer pressure and the presence of gangs may encourage young people to commit crimes in a group context. It has an impact on juveniles' decision to commit crimes and to learn criminal skills from them. (The culture of juvenile gangs)¹⁰

2.2.6. Strain theory

According to the strain theory, juvenile criminality is induced by the difficulty that individuals in poverty face in meeting socially acceptable targets. Sometimes frustration and anger and these sorts of emotions can create pressure in a juvenile's nature, which may lead them to commit crimes.¹¹

2.2.7. Reformatory theory

Instead of punishment, reformatory theory believes in the criminal's reform or correction. Theoretical approaches to delinquency and reformation are intimately linked. Humans have been making mistakes and wrongdoing since the beginning of time. People would become perpetual criminals if there were no corrections. The use of reformatory theory can help to reduce juvenile crime. The goal of discipline is to "transform the offender as a person so that he can once again become a law-abiding member of society."¹²

2.2.8. Labeling theory

Instead of focusing on the person, labelling theory explains deviant behaviour by looking at the social context. The theory is that once a young child has been labelled as a criminal, they will embrace the label and be more motivated to relate to others who have been labelled as well. As a result, a teen gang was formed.¹³

2.3. The Current Status of Juvenile Crime in Bangladesh:

The number of juvenile criminals in Bangladesh is increasing, but the rate in Dhaka is particularly concerning. Bangladesh is one of the world's least developed countries, with 20.5 per cent of its

¹⁰ *Delinquency, Crime and Differential Association*, By Donald Ray Cressey, University of California, Published: 1964

¹¹ *Strain Theories* by Robert Agnew, Heather Scheuerman: Published: Dec 2014

¹² Tanu Priya "Reformatory theory of punishment" (2 September 2014) accessed 30 March 2022

¹³ *An Introduction to Criminological Theory* by Roger Hopkins Burke, 5th Edition, First Published 2018

population living in poverty.¹⁴ Juvenile delinquency and juvenile gang culture are currently a big problem in Bangladesh. One accomplished source of police claimed that the majority of the arrested criminals are teenagers. They are included in robbery, theft, hijacking, and extortion, and they have distinctive sorts of dangerous weapons, including firearms. Rape, smuggling, organized crime by teen gangs, gambling, and murder are all crimes that they are involved in.¹⁵ Globally, socio-cultural and economic changes have impacted Bangladesh's delinquent condition as a result of industrialisation, urbanization, and other factors.¹⁶

Recently, juvenile gang culture created a distinct region and encouraged many juveniles to commit various offences for the area, power, and also for money. Even a minor matter can spark conflict between multiple juvenile gangs and intensify into a severe issue or serious violation of the law. Many juvenile teenagers in Bangladesh are unaware of the law and the consequences of criminal behaviour, choosing to ignore social duties.

2.4. The Root Causes of juvenile Crime in Bangladesh

Bangladesh is a developing country, and the majority of its citizens fail to meet their basic needs. Children are among society's most vulnerable citizens. Peer pressure and inadvertency from family members lead them to make the wrong choices and become involved in criminal activities. Juvenile delinquency is a social issue that is often determined by the prospects available in society. Our country's population is rapidly increasing, and many of our people have lost touch with their previous norms, ethics, and social customs. As a result, juvenile crime has emerged as a major concern, and many sociologists and criminologists believe that the part of juvenile crime is increasing as a result of increased urbanisation. However, according to our socio-economic situation, there are numerous causes of juvenile delinquency. In Bangladesh, the following are the major causes of juvenile crime:

¹⁴ Asian Development Bank - Poverty Data: Bangladesh-2019 <<https://www.adb.org/countries/bangladesh/poverty#:~:text=In%20Bangladesh%2C%20the%20population%20living,day%20is%205.6%25%20in%202019.>> > accessed 31 march 2022

¹⁵ Sheikh Hafizur Rahman Karzon, *Theoretical and applied criminology* (first published in June 2008, 1st edn) 369

¹⁶ Kudrat-e-Khuda "Juvenile delinquency, its cause, and justice system in Bangladesh: a critical analysis (2019) <<https://esciencepress.net/journals/index.php/JSAS/article/view/3097/1651>> accessed 31 march 2022

2.4.1 Bad Effects of the Internet:

Young people are heavily influenced by the internet. On the internet, crime and action movies, yellow journalism, pornography, and blue movies are all available, posing a threat to a child's development. Recently, crime thriller series, serial killer movies, the dark web, online media, online gaming, and other forms of entertainment have irritated the interest of our youths. These are diverting juveniles' imaginations and encourage them toward their illegitimate intention or vision by upsetting their interest in these imaginary places. As a result, cybercrime is on the rise.¹⁷

2.4.2 Industrialization and Urbanization Effects:

As Bangladesh is one of the world's most populous countries. Due to industrialization, urbanisation, and the embarrassment of employment opportunities, large groups of people continue to migrate from rural areas to metropolitan areas. Though industrialisation and urbanisation are improving our financial situation, they are also tearing our society apart and causing countless problems in society and families. Juveniles are becoming delinquents because of these problems.¹⁸

2.4.3. Drugs Effects:

In Dhaka, many street children are involved in drug trafficking. They take drugs and transport them for money. Bangladesh has seen an all-time high in the number of children addicted to narcotics. The majority of juveniles experiment with drugs out of curiosity, while others become addicted due to drug availability. Smoking and using drugs affect one's mental state and hinder one's capacity to distinguish right from wrong. Children who are hooked on drugs are unable to form strong personalities and are more prone to commit crimes in order to fund their addiction.¹⁹

2.4.4. Disobedience of Family:

Family plays a very imperative role in the life of a juvenile. From the very beginning, when a child does not get enough proper education from the family, they become unable to make the

¹⁷ *Internet and Juvenile Prevention: A New Format of Prophylactic Activities with Children: Mykola Veselov & Serhiy Vitvitsky* < <https://www.atlantis-press.com/article/125954398.pdf> > Accessed on March 31, 2022.

¹⁸ *Md.Asaduzzaman, 'A STUDY ON JUVENILE DELINQUENCY IN BANGLADESH: ISSUES AND CHALLENGES' (January 2020) vol-6*

¹⁹ *Ibid.*

right decision in life. Without any proper guidance, a child becomes rootless and violent as well. Most families who are under the poverty line do not give appropriate guidance to their children.

2.4.5. Peer Pressure:

"A man is known, by the companies he keeps," as the saying goes. Peer groups have a significant impact on a child's personality. The majority of juveniles are joining gangs and engaging in anti-social behaviour just by following others. If one in any group makes a bad decision, the rest are likely to follow him without further justification. Criminologists Healy and Bonger discovered that companionship had a significant impact on delinquency in 62 per cent of the 300 cases studied on juvenile crime.²⁰

2.4.6. Economic crisis:

"Poverty is the mother of crime," stated Marcus Aurelius. The negative consequences of economic development and economic catastrophe encourage juvenile delinquency. Poverty is a major issue in Bangladesh. As a result, young people and children alike become involved in criminal activities to acquire money for necessities. Children are exposed to anti-social activities as a result of poverty.²¹

2.5. Juvenile Gang Culture In Bangladesh:

For the past few years, juvenile gangs have been making headlines for whatsoever from heinous crimes to petty crimes to murder, stalking, rape, mugging, drug addiction, and so on. Some powerful elder brothers, such as dominant political leaders, are constantly there to protect them from behind. Those juveniles become furious with the help of their elder brothers.

The majority of the gang members trade and misuse drugs, while others exhibit their capability with illicit firearms and local weaponry. Those gangs are usually involved in a gang war for a minor reason, and as a result, over a dozen persons have been killed by juvenile suspects every year. Many criminologists believe that controlling and rehabilitating those juvenile criminals will be difficult.²² According to the RAB media wing director, gang culture began in Uttara in 2001 with the formation of the short-lived "Kankra" gang. DMP police recently carried out a 9-day special synchronized operation, detaining around 400 (Four Hundred) juveniles, the majority of

²⁰ *The Study of the Delinquent as a Person by Healy and Bonger, Volume: XXVIII, Published: May 1923, No: 6*

²¹ *Socio-Economic Factors Responsible For Increasing Juvenile Delinquency: By Mrs. Vaishali. C. Achakanalli & S. I. Kumbhar, Ph. D, PEER REVIEWED JOURNAL, OCT-NOV 2018, VOL- 6/30 <<https://oaji.net/pdf.html?n=2017/1201-1546069187.pdf>> accessed on April 8, 2022.*

²² *The Daily Star: juvenile Gang Culture, too dangerous to be ignored, Sun Nov 15, 2020, <<https://www.thedailystar.net/frontpage/news/teen-gang-culture-too-dangerous-be-ignored-1994957>> Accessed on 9th April 2022.*

them were minors or under the age of 12, who were then returned to their parents for rehabilitation and were instructed to report to the police once a week.²³

'Disco Boyz,' 'Nine Star,' 'Love Lane,' 'Bangla Group,' 'Zero Zero Seven,' 'Bad guys,' 'Kas Kas Boys,' 'Star Bond,' 'Syndicate boys,' 'Tik Tok gang,' and other juvenile gangs came up in Bangladesh.' The majority of them are between the ages of 14 and 19, and many of them come from noble backgrounds. Among Bangladesh's streets, there are various unidentifiable juvenile gangs.²⁴

2.5.1 Juvenile Gangs in Dhaka City:

Adnan Kabir, a 14-year-old school student, was beaten to death by boys his age in Uttara in 2017. Juvenile gangs in Dhaka first made headlines in 2017. According to law enforcement, Uttara alone has almost a dozen gangs.

Nila Roy, a schoolgirl in Savar in the year 2020, was murdered by a juvenile member of a local gang, allegedly aided by two sons of a ruling party politician. A kid named Nayeem was stabbed to death in Fatullah, Narayanganj. He was murdered in a fight between two gangs. Sharif Hossain, 30 years of age, was stabbed to death in the same place for criticizing gang activity. Two youngsters drowned in the Shitalakhya in Bandar.²⁵

²³ United News of Bangladesh (UNB) – Teen-gangs in Dhaka: How close you live to them! July 08, 2021: M Jahangir Alam, UNB Staff Writer < <https://unb.com.bd/category/Special/teen-gangs-in-dhaka-how-close-you-live-to-them/75163> > Accessed on April 9, 2022

²⁴ Ibid.

²⁵ The Daily Star: juvenile Gang Culture, too dangerous to be ignored, Sun Nov 15, 2020, < <https://www.thedailystar.net/frontpage/news/teen-gang-culture-too-dangerous-be-ignored-1994957> > Accessed on 9th April 2022.

Chapter 3

3.1 Juvenile Justice System in Bangladesh:

When children come into contact with the legal system as a result of their involvement with crime, juvenile justice is an important element of their rights in terms of protecting their best interests. Juvenile justice is a complex area of law that deals with the rights and protection of children. The goal of the study is to prevent children from reoffending and to ensure their rehabilitation and restoration into society. During the investigation, trial, and correctional process, children must be treated differently than adults. It is believed that for juveniles' rights to be protected, they must have the support of the state, family, and community throughout the justice process. To make juveniles worthy of the country's citizens, proper development of juvenile justice is essential.²⁶

In comparison to the adult criminal justice system, the juvenile justice system appears to take a more restorative approach. A successful case for children would result in the juvenile learning from experience without being subjected to the harshness of adult prison, altering their future decisions and life course, and avoiding additional involvement with the juvenile or criminal justice systems.²⁷

3.2 History of Juvenile Justice System in Bangladesh:

The Children Act of 1974 and the Children Rules of 1976 established a legal structure to assist adolescents and children who have come into conflict with the law. Dhaka implemented the Children Act in 1976, and other districts followed suit in 1980. In 1978, the first juvenile Court with a boys' jail was established in Tongi, Gazipur. There were no juvenile courts in the remaining districts during that period. Juvenile Court was only applicable for Dhaka.

When Bangladesh became a signatory to the "United Nations Convention on the Rights of the Child" in 1990, many international non-governmental organizations and local human rights organizations instigated requesting that the Government should amend the existing law to comply with global best practices on child rights protection and suggested to establish Children Courts and correctional facilities in other districts. In due course, two further juvenile institutions were opened in 1995, one for male children in Phulerhat, Jessore, and the other for female children in Konabari, Gazipur.

²⁶ CHILDREN IN CONFLICT WITH LAW: Juvenile justice system in Bangladesh: The New Age, Nahid Riyasad, Dec 01, 2019, < <https://www.newagebd.net/article/92235/children-in-conflict-with-law-juvenile-justice-system-in-bangladesh> > accessed on April 13, 2022.

²⁷ 'Juvenile Justice' < <https://juvenile.gov/juvenile-topics/juvenile-justice> > accessed on April 13, 2022.

The juvenile Court of Tongi is responsible for the divisions of Dhaka, Chittagong, and Sylhet. In contrast, the juvenile Court of Jessore is responsible for the divisions of Khulna, Rajshahi, and Barisal. All seven divisions of Bangladesh are covered by the Konabari juvenile court for girl children.²⁸ The previous statute was repealed with the Children Act of 2013, signing a move away from a disciplinary approach to juvenile justice.

3.3 The Establishment of Juvenile courts:

In Bangladesh, any case involving a child charged with a crime is heard in a juvenile court.²⁹ However, this rule and many court manners of a juvenile's trial are not strictly enforced.³⁰ In case of establishment of the juvenile Court, HCD, Court of Session, Court of Additional Sessions Judge, Assistant Sessions Judge, and Magistrate of the first class shall have the power to try any cases as Juvenile Court.³¹ Only Tongi, Jessore, and Konabari have juvenile courts in Bangladesh; there are none in Khulna, Barisal, or other divisions.³² In Bangladesh, by the Government. Gazette notification or the consultation to the Supreme Court can appoint an Additional Sessions Judge Court as Juvenile Court in District headquarters or in the metropolitan. If an Additional judge is not present, the District and Session Judge shall preside over the case.³³

3.4 The Power and Proceedings of Juvenile Courts:

The Additional Session Judge, at least in each district, is empowered to be a judge of the Juvenile Court according to the Children Act, 2013. If there is the absence of an Additional Session judge, the Session Judge and District Judge may take over the jurisdiction of the Juvenile Court in addition to their duties. But unfortunately, there are no specific judges assigned to the Juvenile Court to deal with only juvenile matters, which causes biases and injustices.³⁴ Separate rooms are available, and the time and location shall be set by the guidelines for the juvenile Court to maintain proper discipline.³⁵ However, every Court in Bangladesh is overcrowded, and there is no distinct structure for juvenile courts. Consequently, the juvenile Court proceeds along with the regular

²⁸ *Gazette notification of Government of Bangladesh on June 23, 1999*

²⁹ *The Children Act 2013, 6(b)*

³⁰ *Section 19 of the Children Act 2013.*

³¹ *The Children Act 2013, Chapter V, s 16(2),17.*

³² *Ibid.*

³³ *The Children Act 2013, s 16*

³⁴ *The Children Act 2013, Chapter V-5*

³⁵ *The Children Act 2013, s 19*

Court in the same building. In Bangladesh, Juvenile Court contains the same power as the sessions Court. Thus, the Juvenile Court and Court of Sessions contain the same power, but there are some procedural differences between both courts.³⁶ The Court also failed to provide the kid with specific seating. In theory, lawyers are not allowed to wear their uniforms in juvenile Court. However, this rule is not properly followed.³⁷ At any point during the trial, the children or their representatives might join in the proceedings, and they must be kept in secure custody. Even though the current statute instructs that no one can publish a report about a juvenile court trial or judgment without the Court's permission, television and social media have harmed privacy.³⁸

3.5. The Institutional Setup of the Juvenile Justice System:

Law enforcement agencies, courts, and correctional institutions dealing with juvenile delinquents are the key components of the juvenile justice system. A critical module of a juvenile justice system is the attitude of professionals from various agencies toward juvenile offenders.³⁹

Juvenile justice includes not only rehabilitation but also the causes of delinquent behaviour as well as prevention actions. They don't provide nearly enough child-friendly services that represent juveniles' best interests in practice. Furthermore, the services are not compliant with international standards and do not consider children's psychology. In such institutions, children are treated brutally and often get punished for silly matters.⁴⁰ In most cases, after getting released from that institution, they become more violent and delinquent than before.

3.6. Ambiguity in existing laws:

The ambiguity in existing law is for conflicting one section with another section of a different Act. Our Judiciary has to face difficulty with such ambiguity. Several amendments have been made but yet there is still ambiguity in terms of Juvenile laws.

The main ambiguity in law is observed while determining a juvenile convict's age and punishing him accordingly, as the definition of a child is given in different laws. In the Children Act, 2013, a child is defined in section 4 as anybody up to the age of 18 years.

³⁶ *The Children Act 2013, s 18*

³⁷ *Md.Asaduzzaman, 'A STUDY ON JUVENILE DELINQUENCY IN BANGLADESH: ISSUES AND CHALLENGES' (January 2020) vol-6, p 74*

³⁸ *Ibid.*

³⁹ *Chowdhury R. N., Law Relating to Juvenile Justice in India, Orient Publishing The company, New Delhi, 2009, p. 3.*

⁴⁰ *Eldefonso, Edward and Coffey, Alan R., Process and Impact of the Juvenile Justice System, Glencoe Press, 1976, London, p. 13.*

Again, The Penal Code provides exemption till the age of 9 years old.⁴¹ Also, Section 83 of the same Act provides an exemption from 9 to 12(Nine to Twelve) years of age if the child did not get enough maturity to understand the consequences of his commission of any crime. The Prisons Act talks about separating residents in a prison where male prisoners under the age of 21(twenty-one) are confined. In other words, it has been said in the Act to separate those of them who have arrived at the age of puberty from those who have not. Here age limits and the age of puberty both conflict with each other.⁴²

Another example is in section 399 (1) of the same Act, where a person under the age of 15(fifteen) years is sentenced to imprisonment for any offense, and the Court may direct that person to a reformatory system established by the Government of Bangladesh.

In the Nari o Shishu Nirjatan Daman Ain, there a child is defined as any person under 16 (sixteen) years of age.⁴³

Those Acts do not give a proper standard of age to deal with Juvenile offenders. As those Acts were enacted in a different era of time, it is a pretty common matter to have such differences and ambiguity, but it is a matter of sorrow that we are still applying all those Acts in our Juvenile Justice system. There should be a specific law for only dealing with Juvenile crimes.

The existing children's law does not specify the extent to which magistrates have the authority to impose a remand order. Also, the children's law does not specify which Court will issue a remand to a juvenile if remand is required according to the offense.⁴⁴

3.7. The High Court Intervention in Juvenile Crimes:

Surprisingly, due to the absence of appropriate consciousness regarding the Children Act among the concerned authorities, since the Children Act of 1974 was not enforced in Bangladesh, the higher Court largely ignored juvenile matters from 1971 to 1980. Again, only 3 (three) cases involving juvenile problems were reported between 1981 and 1990.⁴⁵

After signing the CRC (Convention on the Rights of the Child) in 1990, juvenile cases intervened in the higher Court for the next ten years, from 1991 to 2000. During that time, both the Government and non-governmental organizations focused on juvenile justice.⁴⁶

During this time, 10 cases were reported to the higher Court. Following that, thirteen cases were recognized between 2001 and 2010. So, it is apparent that the issues regarding juvenile justice

⁴¹ *The Penal Code, 1860, section 82*

⁴² *The Prisons Act, 1894, Section 27(2)*

⁴³ *Nari o Shishu Nirjatan Daman Ain, 2000, section 2(ta)*

⁴⁴ *Section 167 and 344 of the Code of Criminal Procedure 1898.*

⁴⁵ *Bablu vs. The State 1 BLD 1981 454, Nasir Ahmed vs. State 42 DLR 1990 89, Kadu and others vs. The State 10 BLD 1990 236.*

⁴⁶ *Suo Moto Order No.248, 2003; 11 BLT 2003 HCD 281.*

are progressively being highlighted in the country. In 2003, the benches of the High Court Division issued some landmark judgments in which it declared that if the accused is a child under the Children Act, 1974, they must be tried in a juvenile court and not in any other Court.

It was also stated in the landmark case of "Bangladesh Legal Aid and Services Trust vs. Bangladesh and Others" that children have the right to be tried by a juvenile court rather than being tried alongside adults.⁴⁷

The High Court Division issued an important Suo Moto Rule with certain directions in the matter of "State vs. The Metropolitan Police Commissioner, Khulna and others" in 2008.⁴⁸ The Suo Moto Rule instructed the responsible authorities to take suitable steps to train their officials on how to comply with the legal rules concerning juveniles. When the orders of the High Court Division are carried out in the true sense of the term and work out accordingly, it will be a turning point in the county's juvenile justice system.

3.8. Appeal and Revision against Juvenile courts decision:

If there is an appeal or revision of a Juvenile Court order that must be submitted to the High Court Division within 60(sixty) days following the court or tribunal's delivery of the judgment, it begins on the day the Court or tribunal delivers the judgment. Furthermore, the appeal and revision application must have proceeded within 60 (sixty) days.⁴⁹ This provision of the law allows the juvenile to deal with any matter which is in violation of the law in a short period of time, thereby reducing the suffering of the juvenile.

3.9. Punishment provisions for Juveniles:

The death penalty or life imprisonment is known as prohibited in Bangladesh as a sentence for children.⁵⁰ When a juvenile is found guilty of committing a serious crime, he or she may face imprisonment if the Court thinks that the punishment provided in the law is not sufficiently equivalent to the crime that the juvenile offender committed.⁵¹

Instead of sending them to prison, juveniles may stay at the Child Detention Center. If a juvenile under the age of 15 is found guilty of a major crime, he or she will be held at the Child Detention Center for a term of three to ten years (3-10).⁵² However, if a child's behaviour is so disorderly or immoral that he or she cannot be put in a certified facility, the Court may sentence the juvenile to prison.⁵³ In Bangladesh, there are 3 (three) juvenile detention centers. The first is the National

⁴⁷ 57 DLR 2005 11

⁴⁸ 60 DLR 2008 660.

⁴⁹ The Children Act 2013, s 41

⁵⁰ The Children Act 2013, s 33(1)

⁵¹ Md.Asaduzzaman, A Study on Juvenile Delinquency In Bangladesh: Issues And Challenges '' (January 2020) vol-6, p 75

⁵² The code of criminal procedure 1898, s 399 (1)

⁵³ The Code of Criminal Procedure 1898, s 392

Juvenile Development Centre, located in Tongi, Gazipur, and houses 300 boys. 'National Juvenile Development Centre' is another. This one is in the Gazipur district of Konabari. This one is exclusively for girls, with a capacity of 150. The Jessore Juvenile Development Centre is the last one, which houses 150 boys.⁵⁴ The majority of centers are overloaded. In Gazipur juvenile detention centers for boys section currently, there are 941 (Nine Hundred Forty) inmates at a time at one period. Most inmates' juveniles had to shower and sleep together in crowded rooms. That leads them to dangerous diseases. When they are in need of medicines, it is mostly provided by their guardians as the sanatorium facilities did not have enough stock.

The Court cannot send directly to the prison to any juvenile offender according to the Children Act, so here the judges face hardship while punishing a juvenile offender considering the situation of the JDC facilities. They mostly use their discretion.

⁵⁴ *Dhaka Traibune*, "Juvenile development centres or torture cells? Shohel Mamun and Tauhid Zaman, Jessore" August 19th, 2020.

Chapter 4

4.1 Findings:

- An inadequate education system increases the delinquency problem.
- Abuse of smartphones and abuse of drugs lead juveniles to do criminal activities.
- Physical and mental torture toward children grievously affected their minds, and they became delinquent.
- Teen gang culture has been introduced as a big threat, and juveniles are committing organized crime through peer groups.
- The new Children's Act, 2013, is not being followed properly.
- In Bangladesh, there is no appropriate number of Juvenile Courts with proper jurisdiction.
- There is an absence of a sufficient number of probation officers in our country.
- Female offenders are not taken care of accordingly.
- There are huge problems regarding separate accommodation, proper education, and medical support in detention centers or jail custody.

❖ Recommendations:

4.2. Recommendations To Remove Ambiguity of Law:

Bangladesh's Government and the legislation have not shown much interest in the removal of such ambiguity in the law regarding Juvenile Offenses. Cases over cases are tangled in our courts every year due to such ambiguity in the law. Judges face hardship in terms of judging Juvenile Criminals. There is also extreme instability between the higher and lower courts in terms of ends of justice for juvenile crimes. We need a proper solution to this.

In our existing laws regarding juvenile crimes, there is severe instability in determining which law or which Court will be applicable to try the offender, so this confusion can be solved by declaring a specific Act only to deal with juvenile criminals. The Children Act, 2013 has to be the one law to deal with Juvenile Crimes. Juvenile Crimes have to be dealt with under one Act to reduce ambiguity in cases of determining the age of the juvenile criminal.

Though we have The Children Act, 2013, which is a separate law to regulate juvenile crimes yet their children and adults are brought before a magistrate together, and an amendment is needed in this regard to maintain a child-friendly environment in Court that is not possible if adult and children brought before magistrate together.

The ambiguity for determining the age of a child is described differently in various laws, which need to be amended, and there should be a standard age limitation in this regard.

Unfortunately, there is no such preventive measure incorporated in The Children Act, 2013, or any other laws in Bangladesh. All the actions and proceedings are given for the crime that has been committed by the juvenile offender, but there should be some provision added in the Children's Law that will prevent the juvenile from getting into trouble and also we can prevent a juvenile from being levelized as a criminal. Thus, we can reduce the crime rate of Juvenile offenses.

4.3 Juvenile Justice System Reforms:

These are some suggestions to make in the juvenile justice system to create a child-friendly environment and improvement in the juvenile justice system in Bangladesh.

4.3.1. The Judicial Reforms

- Instead of punishment, other methods should be implemented, and a more reformative approach should be brought into action.
- Juveniles being tried and punished alongside adults should be severely forbidden.
- There should be a clear age limitation to determine criminal responsibility.
- Separate children/juvenile courts with wide jurisdiction should be established in different buildings away from the criminal courts at district levels.

4.3.2. Improvement of Law Enforcing Agencies

- In the juvenile judicial system, a juvenile bail system should be implemented and should bring it into force as soon as possible.
- In each police station around the country, child affairs desks should be established, and child-friendly police officers should be trained and appointed accordingly.
- Children should have their separate prison cells in police stations.
- The quality and amount of logistic support provided to juvenile offenders being transferred from police stations to other locations should be improved.
- It is necessary to construct a prosecution process for the release of innocent delinquents.
- Every police station should open separate register books where officers can accurately record the children's ages and biographical information.

4.3.3: Recommendations to Reduce Juvenile Crime Effectively:

- Providing proper education and training may be the most effective strategy to address delinquent issues.
- Nowadays, particularly in Bangladesh, juveniles do not have enough entertainment opportunities. As a result, they spend leisure time performing delinquent activities. So, we need more space to give them a chance to play games and develop their hidden skills.
- By enforcing restrictions on the use of smartphones to some extent, the issue of delinquency can be minimized. All forms of drugs that the juvenile may use must be eliminated from the area.
- Taking steps to prevent physical and mental abuse of juveniles at educational institutions or at home.
- A pre-preventive government strategy program should be in place to stop juveniles from getting into social evils such as corruption and violence as soon as possible.
- The procedure for assessing the age of a juvenile should be more specific. Otherwise, a juvenile may be prosecuted as an adult.
- To ensure an appropriate mechanism for the juvenile justice administration, the new Juvenile Act of 2013 should be followed in all places where delinquents are involved.
- Government and non-government organizations have to coordinate jointly, to develop the criminal justice system. The successful enforcement of the provisions of the law can be ensured.
- To make the justice system more efficient and successfully ensures better treatment for juveniles. The accountability in the enforcement of the law has to be maintained.
- Government should assign a sufficient number of probation officers and allocate them to several areas.
- Supervision and restorative justice should be enforced rather than crucial penalties.
- It is important to establish a separate female juvenile detention institution in Dhaka under the jurisdiction of the Ministry of Social Welfare, as female juveniles account for nearly one-third of all juveniles. The jail administration should take steps to show various clinical facilities, taking into account the juvenile child's physical and psychological state. They should

also be sympathetic to juveniles. We should also give our children enough attention, love, care, and time to help them grow into better people.

Chapter 5

Conclusion:

Violence among teenagers is on the rise in Bangladesh, and it's heartbreaking to watch how many children are involved in such incidents to meet their necessities. Adverse consequences are harming the minds of children in this way. Teen gang culture has recently been identified as a considerable menace to our country, and it has been associated with extreme arrogant crime and peer groupings. Money is the supreme demand for all people, including juveniles in Bangladesh. Every young person has many dreams about luxurious life, and for this reason, they can do anything. If we do not take any action to regulate juvenile crime, society will be ruined. It is also tough to administer the proper justice for the juveniles. One of the main issues is the lack of awareness of children's rights among those responsible in the justice system. In Bangladesh, arrest, imprisonment, and punishment processes for juveniles are carried out illegally. Physical assault, brutality, and torture are used in detention interrogations; legal officials also sexually assault even female delinquents.

Although the Children's Act 2013 has brought a massive change, we still did not get a child-friendly justice system. There is excellent law in this country, but the reality is very different as juveniles are deprived of justice. The vulnerability of Bangladeshi children in conflict with the law is another major challenge. Lack of logistical support is the main reason behind the non-implementation of the Act. At all events, the arrangements necessary to comply with the Act are not adequate. The Government of Bangladesh has enacted the law, but it has not made an impact on the life of juveniles in Bangladesh. After this research, it can be said that juvenile crime cannot be completely abolished by imposing sanctions on them, but we can reduce the crime by taking preventive measures and keeping our youth safe from all the causes that lead them to crime.

Finally, I would like to state that Bangladesh is in need of a child-friendly justice system to safeguard the safety of juveniles who have conflicted with the law. Now is the critical time for the Government to eliminate delinquency from our society and take a healthy step in this direction. It is also the Government's job to put the Juvenile law into effect. Furthermore, dedicated law

enforcement agencies and a child-friendly juvenile justice system should be used to reduce juvenile crime to keep our children safe and secure.

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