

**JUVENILE AND CRIMINAL JUSTICE SYSTEM IN
BANGLADESH**

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Dedicated To Our Inspired Idol

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Declaration

I gratefully aware that I have an obligation to make clear to the assessor which is my own work, and which is the work of others whom I am citing in my paper. Unless, I clearly indicate otherwise, my assessor is entitled to assume that everything being presented in the paper originates from me. I also declare that I have not submitted this paper or any part of it, for assessment in any of my post-graduate coursework or other academic endeavors. I am also fully aware that restoring to plagiarism would lead me to obtain a mark of 'zero' and expose us to further disciplinary actions as prescribed by the University's rules and regulations.

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Acknowledgment

At first, we would like to thank our merciful and the most passionate ALLAH for giving us the opportunity to complete our dissertation. The purpose of this dissertation is to present our topic as clearly as possible, as briefly as practicable.

We have completed our dissertation on “Juvenile Criminal Justice System In Bangladesh “

This dissertation represents the details of the basic concepts like definition, classification, characteristics, history, legal documents with some case references etc of Juvenile Criminal Justice System In Bangladesh. Unavoidably, there may occur some mistakes in this dissertation but we have tried with our maximum effort to include correct and important data.

So, we request please avoid the mistakes and consider the only positive sides of this dissertation.

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Chapter 1

INTRODUCTION

1.1 Background

As far back as the beginning of mankind's history man has been on the walk in mission of equity. In the event that law must be a living power and fill in as a vehicle of equity, it must make up for lost time with those new thoughts and offer impact to the requests and yearnings of the present-day society. Law isn't an end in itself; it is just an unfortunate chore.

In a general public administered by the idea of principle of law, it is no uncertainty important to secure the blamed with a specific sum for least shield, and yet it is additionally officeholder upon the general public to see that equity is done to the distressed subject by effectively conveying the transgressors to book. Also, if for accomplishing this end the law, both substantive and procedural, requires to be changed, a dynamic and procedural, requires to be altered, a dynamic culture, having due respect for the bigger social great, ought not waver to complete such essential changes so as to make the law a compelling instrument of social equity.

The main prerequisite of a sound group of law is that it ought to relate with the genuine sentiments and requests of the network, regardless of whether right or wrong. On the off chance that individuals would delight the enthusiasm of reprisal outside of the law if the law did not encourage them, the law must choose between limited options but rather to fulfill the hankering itself, and in this way keep away from the more noteworthy insidiousness of private revenge. At that some point, this enthusiasm isn't one which we empower, either as private people or as officials. Additionally, it doesn't make the entire progress. There are violations which don't energize it and we ought to normally expect that the most vital motivations behind discipline would be co-broad with the entire field of its application. It stays to be found whether such a broadly useful exists, and

assuming this is the case, what it is. Diverse speculations still separation supposition upon the subject¹.

In this exposition an endeavor has been made to comprehend adolescent and criminal equity, their jurisprudential contrasts and the elements causing disability of appropriate equity for the previously mentioned.

1.2 literature Review

To prepare this thesis paper I have been used a lot of Juvenile justice Law related books, journals, articles, News Paper, Magazine. I have also have been collect data from internet. Most of the important books which have been cited here are as follows: Criminology by Monjur Kader and Md. Muajjem Hussain, Criminology and Penology by N.V.Paranjape, Juvenile Delinquency in Bangaldseh by Mohammad Afsaruddin, Theoretical and Applied Criminology by Sheikh Hafizur Rahman Karzon.

1.3 Objective

Since the objective is to find out that juvenile is a person who are under the age of 18 years old. They commit crimes by influence another one. Broken family, immoral home, over busy economic condition of the family, physical and biological factor etc. are the main reason of juvenile delinquency.

The most decisive objective of the research is to determine that Bangladesh Government are enacted some laws to protect the juveniles and establish some Rehabilitation center to remove juvenile delinquency from Bangladesh.

^{1 1} R. Deb, *Criminal Justice*, 1st ed. (Allahabad, The Law Book Company Ltd. 1998).

1.4 Research Question

1. What is juvenile delinquency?
2. What are the international instrument which deals with the protection of juvenile delinquency?
3. What are the legal provision of juvenile justice system in Bangladesh?

1.5 Methodology

To prepare the research paper I have been used some method and these are: firstly; I have consult with my research supervisor and discussed the outline of this work. As par the instruction of the supervisor, I have prepared the outline and began to work on it. Secondly I followed the analytical way. In this research paper I made some analysis of various Case laws pronounced in difference national and international Courts and Tribunals. Thirdly I followed the empirical way and Fourthly I searched internet and borrowed many information and documents from difference web site, reference books, which are related with juvenile delinquency in Bangladesh, some newspaper

Which has some article related with juvenile delinquency in Bangladesh, find out some journal whose are related with juvenile delinquency in Bangladesh, and lastly I also went to some public library to collect data on juvenile delinquency in Bangladesh

1.6 Significance of this Research

Delinquency is one of the burning issues all over the world. The paper has been designed to explore the causes, consequences and diversity of criminal activities by juvenile delinquents. The study is descriptive in nature. Sample has been selected purposively and social survey method is used to collect data. It is revealed from the study that, no particular reason is responsible for juveniles' delinquency- a variety of reasons are responsible for this. Lack of proper family control, conflict in family, situation of residential area, impact of movies etc. are equally responsible for the juvenile delinquency. A number of juveniles are incapable to maintain their basic needs and to get proper recreation from their family. Consequently, they are involving in many anti-social activities to fulfill their basic needs and recreation through earning money.

Chapter 2

UNDERSTANDING JUVENILE AND CRIMINAL JUSTICE

2.1 The Concept of Juvenile Justice

As indicated by Burt, "a youngster is to be viewed as in fact a delinquent when his enemy of social propensities show up so grave that winds up subject of authority activity. "Independent of lawful definition, a youngster may be viewed as delinquent when his enemy of social direct delivers enduring upon others or when his family discovers him hard to control.²

The reason for juvenile equity framework isn't to punish the juveniles, however to commit them comprehend their errors and manage the cost of them a chance to correct themselves. Any containment or detainment in a remand home, place of wellbeing or amendment focus is a noteworthy boundary for the correction of juveniles. Since confinement inside an organization makes liable sentiments among the juveniles and individuals additionally treat them as guilty party. Considering this frame of mind of society the Kids Demonstration, 1974 offers capacity to the officer responsible for the police headquarters to forward the juveniles on safeguard and to the justices to arrange the juveniles to be discharged on post-trial supervision of good direct and focused on the consideration of the guardians or some other relative even after the conviction of the juveniles. Be that as it may, sadly these elective measures stay unexhausted because of absence of inspiration, obliviousness of officers and inaccessibility of guardians or hesitance of guardians. Hardship of freedom of juveniles by sending them to the revision focus ought to be the final hotel and ought to be utilized in the rarest of the uncommon cases. In any case, hardship of freedom is widely utilized which is baffling the motivation behind juvenile equity.

²² *The Special Powers Act, 1974.*
The Acid Violation Prevention Act, 2002.

In the meantime, arrangements to treat the youngsters independently after capture, to submit separate charge-sheet and to direct separate preliminary in an unattractive environment are not kept up because of numbness of law, legitimate inspiration and a frame of mind to keep away from additional weight by the cops and justices.

The progress of society, complicity of urban life, nonattendance of parental control and care, effect of satellite culture and generally speaking failing of society cause to create degenerate juvenile subculture in Bangladesh. Usage of law by the primary performing artists, misuse of elective measures, and hard and fast endeavors of societal individuals of various strata are required to battle this issue.

The organization of equity for minors who are blamed for, or asserted as having broken the punitive laws of the nation basically comprises the juvenile equity framework. Juvenile equity, in the strict feeling of the term, indicates the privilege of kids to have the help at all dimensions, i.e., the Express, the family and the network, in understanding their privileges of survival, security, advancement and cooperation. The present exercise is an endeavor at evaluating the organization of juvenile equity in Bangladesh and surveying the effect of restorative administrations on juveniles and youngsters.

2.1.1 Definition of Juvenile delinquent

The idea of "Juvenile delinquency" has been ambiguously and loosely characterized in numerous nations; a reasonable definition would be most valuable in the detailing of useful software engineers for the aversion of juvenile delinquency. In discovering a working definition, it ought to be commented that juvenile delinquency isn't insignificant legalistic idea as it is a few times taken to be. It might be interpreted as an explicit standard of conduct. It is just when this personal conduct standard is of a forceful nature and bunch to the general

population that the kid or young lady concern come juvenile delinquency might be characterized in straightforward words as withdrawn propensities in the youthful and energetic. It spells the loss of control of family and society over a segment of the developing age. A guilty party is viewed as juvenile or criminal based on his age at the season of conviction not at the season of commission of offense.

"It is a wonder which has drawn in the consideration of society specifically the law since the introduction of human advancement."

As per Burt, "a tyke is to be viewed as in fact a reprobate when his enemy of social propensities show up so grave that ends up subject of authority activity. "Independent of legitimate definition, a tyke may be viewed as reprobate when his enemy of social direct delivers enduring upon others or when his family discovers him hard to control.

In an expansive nonexclusive sense, juvenile delinquency alludes to " an assortment of hostile to social behavior of a youngster and is characterized somewhat diversely by various social orders, however a typical cornering propensity might be noted in those structures, to be specific, socially inadmissible inclination of the kid at some random time."

By Paul W. Tappan, Indirect wording, for example, "hurling" rather than preliminary or rather than "sentence" ought not cover from us the way that the idea of whole strategy might be minimal unique in relation to that of a criminal court.

³ *The Bangladesh Labour Code, 2006.*

⁴ *The Special Powers Act, 1974.*

2.1.2 Problem determining the of child's age for delinquency

The Unified Countries Tradition on the Privileges of the Youngster (CRC) characterized kid as any individual younger than 18 years except if under the law material to the kid, development is accomplished prior. Bangladesh confirmed the ⁵Tradition on the Privileges of the Tyke in November 1989. In Bangladesh there are various laws which characterized a youngster. These laws are clashing with respect to the period of kids. Some portrayed a tyke as an individual underneath 12 years, others state beneath 14 years and some characterized them as an individual beneath 18 years old. In any case, the Kids Demonstration, 1974 characterized a tyke as an individual younger than 16 years. Article 2(f) gives that, "Kid" implies an individual younger than 16 years, and when utilized with reference to a tyke sent to an affirmed organization or endorsed home or submitted by a Court to the guardianship of a relative or other fit individual implies that tyke amid the entire time of his detainment despite that he may have achieved the age of 16 years amid that period.

2.2 The Concept of Criminal Justice

Man naturally is a battling creature thus to think about a crimeless society is a legend. Genuinely talking there is no general public without the issue of wrongdoing and culprits. The idea of wrongdoing is basically worried about the social request. It is notable that man's advantages are best ensured as an individual from the network. Everybody owes certain obligations to his kindred men and in the meantime has certain rights and benefits which he anticipates that others will guarantee for him.

This feeling of common regard and trust for the privileges of different controls the lead of the individuals from society bury se. Albeit the vast majority have faith in 'when in doubt refrain from interfering' rule yet there are a rare sorts of people who, for reasons unknown or the other, digress from this typical personal conduct

⁵ *The Code of Criminal Procedure*

standard and connect themselves with hostile to social components. This laborious undertaking of securing the decent subjects and rebuffing the crooks vests with the State which performs it through the instrumentality of law. It is hence that Salmond has characterized law 'generally speaking of activity controlling the lead of people in the public arena. The behaviors which are precluded by the leaving law at a given time and place are known as illegitimate acts or wrongdoings though those which are passable under the law are treated as legitimate.

As per Dharamsastra essayists, difficulty was living foundation in India. Epigraphic and legitimate records demonstrate that difficulty was drilled entirely .concurring" to the Dharamsastra rules since times immemorial in the Indian history. Old authors have alluded to the experiences as celestial strategies with different names, for example, Samayakriya, Sapatha, Divya, or Pariksa. Experiences were treated as an awesome methods for verification about blame or blamelessness of the denounced. The two essential parts of difficulties were : (I) they showed the celestial part of preliminary, and (ii) the fundamental thought hidden this strategy for preliminary was the need of heavenly mediation at a vital minute in administering equity. In this way experience was a classical organization, a deer, established exceptionally, polished by the general population in antiquated India, Yajnaoalkya makes reference to five, sorts of trials—Balance, Fire, Water, "Toxic substance and Kosa.

2.2.1 Criminal Justice

The main prerequisite of a sound assemblage of law is that it ought to compare with the real emotions and requests of the network, regardless of whether right or off-base. In the event that individuals would delight the enthusiasm of reprisal outside of the law if the law did not encourage them, the law must choose between limited options but rather to fulfill the hankering itself, and in this manner maintain a strategic distance from the more noteworthy insidiousness of private requital.

Usually conviction that a wrongdoing is anything which is calls a wrongdoing, and a criminal punishment is just the punishment accommodated doing anything which has been given that name. So empty an idea is a disloyalty of scholarly liquidation.

This inquiry, to my psyche, is key to law. At the point when the policeman, the examiner, the judge or the restorative authority practice the watchfulness presented on them by law, their view on what a wrongdoing is, and why practice their ward and carefulness. Thusly the rationality hidden criminal law must be explained and surely knew before we can manage wrongdoing and discipline in a significant way.

"A typical police appreciates in regard of a typical man more noteworthy forces than even the president, Prime Minister, Members of the Parliament, Judges or high authorities of unlawful arms of stolen products. He can stop you in the road and inquiry your body. He can gather your to the police headquarters. He can keep you in hajat. He can capture you and indict you. On the off chance that you are not living in a numb-skulls heaven you need to surrender these forces to the place, energetically or reluctantly, and when the police utilizes these forces he has support of a law he rear these activities."

2.2.2 Inquisitorial Versus Adversarial Justice

Preliminaries by experience, or maybe by fight, were the foundation of the inquisitorial arrangement of equity. Under this framework the charged individual was viewed as blameworthy until demonstrated guiltless. Inquisitorial equity ended up show when some type of awesome mediation saved the blamed from agony, enduring, or passing, or when the charged promptly conceded his or her blame, for the most part after torment or different types of flogging. This framework which currently may all the more legitimately be known as the request

framework—still exists in an altered shape in many nations that did not advance from English or American provincial guideline. In the cutting edge request court, every one of the members judge, investigator, guard lawyer, and witnesses are obliged to participate with the court in its investigation into the wrongdoing. It is trusted that reality will develop out of this request (an investigation, in an esteem free feeling of the term).

On the other hand, American legal process mirrors the foe framework, in which the charged individual is ventured to be guiltless and the weight of evidence is put on the court. In the enemy court, the judge is a fair mediator or ref between enemies—the indictment and protection. The contradicting sides battle inside strict principles of technique, and it is trusted that the agree with reality will win. Foe procedures are grounded morally justified of the litigant to cease from harming himself or herself (as contradicted, to the absence of such a privilege in an in-quiry court) and in the idea of fair treatment of law, an idea that attests fundamental standards of equity and suggests the organization of laws that don't damage singular rights.⁶

⁶ *The Customs Act, 1969* and *The Mulya Songjojon Kar Ain, 1991*.

Chapter 3

JUVENILE AND CRIMINAL JUSTICE IN INTERNATIONAL LEGAL FRAMEWORK

3.1 Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) 1985

The Beijing Rules give least conditions to the treatment of juveniles who clash with law. The Rules unequivocally accommodate a different and specific arrangement of juvenile equity and underscore that detainment of youngsters ought to be utilized if all else fails and that as well, for the most limited conceivable time. The Rules dishearten capital and corpora discipline for youngsters.

Under the Rules youngsters ought to be permitted to take an interest in the legitimate procedures. In addition, care and instruction of youngsters must be guaranteed amid the time of confinement. At all phases of the procedures watchfulness ought to be practiced to the greatest advantage of the tyke.

As far as treatment the Rules necessitate that youngsters ought to be dealt with decently and compassionately. Measures received ought to be proportionate to the idea of the guilty party and the offense. The Beijing Rules nonetheless, abstain from endorsing approaches past putting forward the fundamental standards of proportionality and the restricted utilization of hardship of freedom, a weakness that has been settled generously by the Convention on the Rights of the Child.

3.2 The Convention on the Rights of the Child 1989

The Convention on the Rights of the Child (CRC) 1989 in Articles 37 and 40 spell out the privileges of kids in strife with the law and guarantee fundamental

assurances and legitimate and other help for their barrier. Article 37 of the CRC guarantees that no tyke will be exposed to discretionary capture confinement, torment or other merciless. Brutal and debasing treatment including the death penalty and life sentence. The capture or detainment c f a youngster must be in congruity with law amid which the tyke will be treated with humankind and poise.

Huge numbers of the fundamental standards of the 1985 Beijing Rules discover articulation in Article 40 of the CRC and loan them a coupling impact. Article 40 of the CRC gives that each youngster asserted as, blamed for, or perceived as having damaged the correctional law must be treated in a way predictable with the tyke's human rights, key opportunities, feeling of worth and respect. Respect must be had to the age of the youngster and the need to advance its reintegration into society-Accordingly, a tyke must be assumed honest until demonstrated liable, be educated of charges instantly and can't be constrained to give declaration or admit to blame and dream rave access to legitimate portrayal. Articles 37 and 40 are qualified by Article 3 of the CRC which expresses that in all activities, regardless of whether funeral director by open or private social welfare establishments, courtrooms, authoritative specialists or administrative bodies, the best advantages of the tyke will be an essential thought.

The Convention on the Rights of the Child is supplemented by two other significant records, which set models and rules for the insurance of kids in struggle with the law.

3.3 UN Guidelines for the Protection of Juveniles Deprived of their Liberty 1990

These Guidelines apply to all organizations, which keep any individual younger than 18 years. These incorporate organizations for wellbeing, welfare or juvenile equity. The Guidelines advocate the minimum conceivable utilization of hardship of freedom and debilitates confinement in penitentiaries and other shut

foundations. Besides, the Guidelines exhort that kids, when confined, ought to be kept separate from grown-ups so as to shield them from negative impacts. Or maybe, offices must advance wellbeing of juveniles and impart in them confidence and an awareness of other's expectations to empower them to make a smooth come back to society. Access to guardians amid the time of detainment is basic.

3.1.4 UN Guidelines for the Prevention of Juvenile Delinquency (Hie Riyadh Guidelines) 1990

The Riyadh Guidelines accentuations on the requirement for coordinated and exhaustive plans for avoiding wrongdoings by youngsters and youngsters. They advocate for formal components of wrongdoing control if all else fails. The Guidelines likewise underline the requirement for having due respect to the human rights and basic opportunities of youngsters, especially of the individuals who are at 'social hazard, for example, kids who are destitute, penniless, manhandled, etc. Likewise, laws and systems ought to advance, secure and maintain kids' rights. The Guidelines further prescribe that kids ought to be urged to partake in approach plan and execution of anticipation software engineers as dynamic and equivalent accomplices.

An examination of the worldwide models on the organization c: juvenile equity uncovers two expansive rules that are of specific noteworthiness to kids in strife with the law. Right off the bat, that the prosperity of kids who come in struggle with the law must be guaranteed and besides, the kids who come in strife with the law must be treated in a way comparable to their conditions and nature of the offense. As such, the privileges of kids in struggle with the law must be secured in manners that will encourage their reintegration into the; social orders and acceptance of obligations in that. In this way, it is fundamental to gauge the contemplations satisfactorily before submitting youngsters to formal foundations. In this specific situation, redirection from formal lawful methodology is dependably a worthy option.

Support of universal guidelines, notwithstanding, does not consequently ensure their commonsense implementation in household setting of states-While global models are intended to apply equitably, they basically need restricting power. Along these lines, while global Conventions may incite certain duties regarding sanctioning states, they convey no formal commitments as far as down to earth execution. In the conditions, it is pivotal to create empowering components inside the residential lawful framework for usage of global guidelines in practical ways.

3.5 United Nations Convention against Torture

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is a global human rights instrument, under the survey of the United Nations that intends to avert torment the world over. Article 1 of the Convention characterizes torment as: "any demonstration by which extreme torment or enduring, regardless of whether physical or mental, is deliberately exacted on an individual for such purposes as getting from him or a third individual, data or an admission, rebuffing him for a demonstration he or a third individual has submitted or is associated with having submitted, or threatening or pressuring him or a third individual, or for any reason dependent on segregation of any sort, when such agony or enduring is caused by or at the affectation of or with the assent or quiet submission of an open official or other individual acting in an official limit. It does exclude agony or experiencing emerging just, inalienable in or coincidental to legitimate assents."

Article 2 of the tradition precludes torment, and expects gatherings to take viable measures to avert it in any region under its ward. This denial is supreme and non-derivable. "No remarkable conditions at all" might be conjured to legitimize torment, including war, danger of war, inside political shakiness, open crisis, psychological militant acts, rough wrongdoing, or any type of furnished clash. Torment can't be legitimized as a way to ensure open security or avoid crises. Neither would it be able to be legitimized by requests from prevalent officers or open authorities. The denial on torment applies to all regions under a gathering's

compelling locale, and ensures all individuals under its powerful control, paying little heed to citizenship or how that control is worked out. Since the Conventions passage into power, this outright forbiddance has turned out to be acknowledged as a standard of standard worldwide law.

Enduring is perpetrated by or at the impelling of or with the assent or passive consent of an open official or other individual acting in an official limit. It does exclude torment or experiencing emerging just, innate in or coincidental to legitimate approvals.

Bangladesh endorsed the Convention against Torture on 5 Oct 1998.

Chapter 4

JUVENILE AND CRIMINAL JUSTICE SYSTEM IN BANGLADESH

4.1 Juvenile Justice in Bangladesh

The organization of equity for minors who are blamed for, or affirmed as having ruptured the correctional laws of the nation basically comprises the juvenile equity framework. Juvenile equity, in the strict feeling of the term, signifies the privilege of youngsters to have the help at all dimensions, i.e., the State, the family and the network, in understanding their privileges of survival, security, improvement and support.

The Children Act, 1974 is the substantive law for juvenile guilty parties and their treatment. The law was made to unite and correct the laws identifying with the guardianship, security and treatment of youngsters and preliminary and discipline of energetic wrongdoers.

The Children Act, 1974 characterized a youngster as an individual younger than 16 years. Article 2(f) gives that, "Youngster" implies an individual younger than 16 years, and when utilized with reference to a tyke sent to an ensured establishment or endorsed home or submitted by a Court to the authority of a relative or other fit individual implies that tyke amid the entire time of his confinement despite that he may have accomplished the age of 16 years amid that period.

4.1.2 The Children's Act 1974

The lawful arrangements identifying with the organization of juvenile equity in Bangladesh have their underlying foundations in provincial laws. The Bengal

Code and Prisons Act of 1894 required separate preliminaries for kids and grown-ups. Rules for transformation were contained in the Reformatory Schools Act 1897. The Code of Criminal Procedure of 1898 accommodates the preliminary of youngsters in juvenile courts, which was likewise later prescribed by The Bengal Children's Act 1922. These different laws and arrangements identifying with guardianship, assurance, preliminary and treatment of kids were in the long run solidified to deliver The Children Act 1974, to be perused together with The Children Rules '1976, a component considered to ensure the tyke's best enthusiasm amid a wide range of lawful procedures.

The Children Act 1974 contains both procedural and also substantive parts. The procedural segment, enhanced by The Code of Criminal Procedure 1898, sets out extraordinary techniques for juvenile courts and for carrying out kids to the insurance and care of state offices. The substantive part, then again, depicts offenses done to youngsters and recommends punishments for them.

The Children Act 1974 sets down securities for youngsters in struggle with the law and in addition the individuals who are at social dangers. The Act necessitates that Courts must have respect to the age and character of the tyke and other related factors previously passing any request. It accommodates separate juvenile courts and denies the joint preliminary of kid wrongdoers with grown-ups, even where the offense has been submitted together. The Act additionally sets down measures for the consideration and assurance of desperate and disregarded kids including kids whose guardians/watchmen are either alcoholic or who routinely disregard, misuse or abuse youngsters by connecting with them in asking or different purposes.

4.1.3 Arrest, bail, detention and discharge

Where an individual evidently younger than sixteen years is captured on a charge of non-bailable offense and can't be brought forthwith under the watchful eye of a

court, the officer-in-Charge of the police headquarters to which such individual is brought may discharge him on safeguard, if adequate security is expected, however will not do as such where the arrival of the individual will carry him into relationship with presumed criminal or open him to moral threat or where his discharge would crush the finishes of equity .Where such an individual isn't discharged under area 48, the officer responsible for the police headquarters will make him be confined in a

(i) Remand home or

(ii) A place of security until the point when he can be brought under the watchful eye of the court. A court, on remanding for a preliminary a tyke who isn't discharged on safeguard, will arrange him to be kept in (I) a remand home or (ii) a position of security. [Section 49, the Children Act]

Following the capture of a tyke, the officer-in-control will educate to the Probation Officer of such capture to empower the said post trial agent to continue forthwith in the matter of the juvenile. No youngster will be accused of, or strove for, any offense together with a grown-up. Cop needs to submit separate charge sheet and concerned judge needs to direct separate preliminary when a juvenile has been accused of any offense.

No youngster will be condemned to death, transportation or detainment. Given that when a tyke is found to have submitted an offense of so genuine a nature that the court is of sentiment that no discipline, which under the arrangements of this Act it is approved to exact, is adequate or when the court is fulfilled that the youngster is of so rowdy or of so debased character that he can't be focused on an ensured organization and that none of alternate strategies in which the case may lawfully be managed reasonable, the court may condemn the tyke to detainment or request him to be confined in such place and on such conditions as it supposes fit.

4.1.4 Alternative measures

A court may, on the off chance that it supposes fit, rather than guiding any young guilty party to be kept in a guaranteed establishment under segment 52 arrange him to be (a) released after due advice, or (b) discharged on post-trial supervision of good direct and focused on the consideration of his parent or watchman or other grown-up relative or other fit individual on such parent, gatekeeper, relative or individual executing a bond, with or without sureties, as the court may require, to be in charge of the great conduct of the energetic wrongdoer for any period not surpassing three years and the court may likewise arrange that the energetic wrongdoer be put under the supervision of a Probation Officer . On the off chance that it appears to the court on getting a report from the post-trial supervisor or generally that the energetic guilty party has not been of good conduct amid the time of his probation, it might, in the wake of making such request as it esteems fit, arrange the young wrongdoer to be confined in an affirmed organization for the unexpired time of probation.

4.1.5 Trial of Juvenile

The Children Act 1974 gives that tyke wrongdoers may just be attempted by juvenile courts or different courts appropriately engaged. Under the Children Act 1974 the forces gave on a juvenile court can be practiced by:

01. The High Court Division of the Supreme Court;
02. A Court of Session;
03. A court of an Additional Sessions Judge and of an Assistant Sessions Judge;
04. A Sub-Divisional Magistrate; and
05. A Magistrate of the First Class;

It is clear from the over that despite the fact that the foundation of isolated courts for juveniles is endorsed by law, the previously mentioned courts are allowed by law to attempt youngster guilty parties gave that they apply indistinguishable guidelines and strategies from pursued by a juvenile court. These courts sit as

juvenile courts just when the guilty party is under 16 years old. At the point when a Juvenile Court has been set up for any neighborhood court will attempt all cases in which a youngster is accused of the commission of an offense. The simultaneous locale of the Magistrate and Sessions Court is to a vast degree in charge of the inability to set up a free juvenile equity framework. The powerlessness of giving a different preliminary framework to juveniles originates from the criminal equity framework that is to a great extent conventional in its methodology and locale that is restricted regarding topic.

The Children Act 1974 additionally accommodates privacy in regard of court procedures against a juvenile guilty party. To this end Section 9 of The Children Act sets out that no individual will be available at any sitting of a Juvenile Court, aside from ⁷

- The individuals and officers of the Court;
- The gatherings to the case or continuing and different people straightforwardly worried about the case/continuing including cops;
- The guardians or gatekeepers of the tyke; and
- Such other individual as the Court exceptionally approves to be available;

Classification regularly involves the withdrawal of specific individuals from the knowing about the case. On the off chance that at any phase amid the becoming aware of a case or continuing the Court thinks of it as important in light of a legitimate concern for the tyke to coordinate any individual, including the parent/watchman or the companion of the tyke or even the tyke himself/herself to pull back, the Court may make such request whereupon the individual concerned will pull back. In a similar manner if at any phase of the becoming aware of the case or continuing the Court is fulfilled that the nearness of the tyke isn't fundamental, the Court may abstain from the participation of the kid.

⁷ , *Criminology and Penology*, 12th ed. (Allahabad : Central Law Publications, 2007), p.130.

The arrangement on privacy should likewise be summoned amid examination of a youngster witness. Segment 12 of The Children Act gives that if at any phase of the knowing about a case or continuing in connection to an offense against or any lead in opposition to profound quality or tolerability, a youngster is gathered as an observer, the Court may direct such people as it supposes fit, not being gatherings to the case/continuing and their legitimate counselors and court authorities, to pull back. In any occasion no report in any paper, magazine or any news organization will be allowed to uncover any subtleties of the Court procedures in which a tyke is included. Additionally, no photo of the youngster will be distributed which specifically or by implication prompts the ID of such a kid except if the Court esteems it fundamental in light of a legitimate concern for the kid . The necessity of classification likewise reaches out to reports of Probation Officers and different reports impinging on a tyke guilty party.

Amid preliminary of a juvenile there are sure striking perspectives that require uncommon thought? Segment 15 of The Children Act 1974 states that with the end goal of any request, which the Court needs to pass, the accompanying variables will be contemplated:

- The age and character of the tyke;
- The conditions in which the tyke is living;
- The reports made by the Probation Officer;
- Such different issues as might be required to be thought about in light of a legitimate concern for the kid.

4.1.6 Sentencing Verdict of the Court

The method of discipline for youngsters is confined to detainment and systematization in a confirmed home. Truth be told, Section 71 of The Children Act 1974 disallows the utilization of the words 'conviction' and 'condemned' in connection to youngsters. Then again, the words might be perused discovered blameworthy of an offense.

After the meeting the Court can practice three choices:

- submit the tyke to an ensured home;
- discharge him on post-trial supervision; and
- release him after caution;

8

Area 51 of The Children Act 1974 sets out that no kid will be condemned to death, transportation or detainment. In any case, if the Court is of the conclusion that the wrongdoing submitted is of so genuine a nature or the kid is so boisterous or corrupted that he can't be focused on a confirmed organization; the youngster can be condemned to detainment. By and by, a kid wrongdoer so dedicated will not be permitted to connect with grown-up guilty parties. In any case, there is no unmistakable sign of what comprises "uncontrollable conduct. In addition, when kids have been it isn't clear where they ought to be kept.

Where the Court finds a kid blameworthy of an offense culpable with death, transportation or detainment, it might, on the off chance that it suspects as much catalyst, arrange him to be focused on a guaranteed establishment for confinement. In such cases the time of confinement will not be under two years and not over 10 years, and regardless will not stretch out past when the tyke will achieve the age of 18 years.

Be that as it may, amid one of the visits to the Tongi Correctional Center a 15-year old kid who was fined Tk. 10,000 and condemned to 7 years detainment. It is apparent that there exists neither instrument for determining eras for confinement nor any rule on the strategy once a prisoner achieves 18 years. Without birth enlistment the likelihood of kids exceeding their time in guaranteed organizations can't be discounted. Agreeing authorities of Correctional Institutes youngsters are sent off to the focal prison to finish their incomplete sentences once they

⁸ Sec. 2 of the *United Nations Convention on the Rights of the Child*

accomplish the age of 18 years. This displays a mystery—in the event that these youngsters are sent to imprison, what is the reason for remedial treatment.

The Court may likewise, rather than submitting him to a guaranteed establishment, release youthful of bumper after due rebuke and exhortation. "Oppositely, the youthful guilty party might be discharged on post-trial supervision for good conduct for a period not surpassing three years. In this specific situation, the tyke might be discharged into the consideration of his parent/gatekeeper or some other fit individual executing a bond, with or without surety, as the Court may require.

The Court may likewise arrange that the tyke might be set under the supervision of a Probation Officer. Notwithstanding, in the event that it appears to the Court from reports of the Probation Officer that the energetic wrongdoer has not been carrying on well amid the probation time frame, it might, after due request, arrange the youthful guilty party to be kept in an affirmed home for the rest of the time of his probation .

4.1.7. Criminal Justice in Bangladesh

4.2.1 Constitution of the People's Republic of Bangladesh

Article 35(5) of Bangladesh Constitution expresses that, no individual will be liable to torment or to merciless, brutal, or corrupting discipline or treatment, regardless of whether the blamed is taken in police guardianship no law in the nation gives any specialist to the police to torment that individual or to expose him to unfeeling, cruel and debasing treatment. Consequently, the procedure of police remand is in opposition to the express Constitutional arrangements in Articles 27, 33 and 35.

Once more, Art. 35(4) fortifies that data which is blackmailed from the denounced can't be utilized against him. Second, Clause (4) of Article 35 of the Constitution is clear to the point that data got from the blamed conveys no evidentiary

incentive against the denounced individual and can't be utilized against him at the season of preliminary. Third, in perspective of Article 35, that no individual will be liable to torment or to pitiless, brutal, or debasing discipline or treatment, regardless of whether the denounced is taken in police guardianship no law in the nation gives any specialist to the police to torment that individual or to expose him to merciless, barbaric and corrupting treatment. Fourth, the court proposed that cross examination might be made while the charged is in prison care if cross examination is at all essential yet not in police guardianship and no torment or barbaric medications is permitted by the Constitution.

4.1.8 The Structure of Criminal Courts

The Judiciary of Bangladesh comprises of a Supreme Court and Subordinate Courts. These courts are:

Supreme Court: The Supreme Court of Bangladesh was built up under Art. 94 of the Constitution of the People's Republic of Bangladesh as pursues:

"There will be a Supreme Court for Bangladesh (to be known as the Supreme Court of Bangladesh) involving the Appellate Division and the High Court Division".

The Code of Criminal Procedure 1898 is the legitimate premise of the criminal courts in Bangladesh. Sec. 6 of this Code sets out that other than the Supreme Court and the courts comprised under any law for time being in power, other than this Code, there will be two classes of criminal courts in Bangladesh, in particular

1. Courts of Session; and
2. Courts of Magistrate⁹

⁹ *The Children Act, 1974* defined a child as a person under the age of 16 years. Article 2(f) provides that, "Child" means a person under the age of 16 years.

4.1.9 Courts of Session

The entire domain of Bangladesh has been isolated into a few Sessions division each containing a court Sessions with the end goal of organization of Criminal equity. The Government will build up a Court of Sessions division and choose a judge of such Court and the Court of Session for Metropolitan Area will be known as the Metropolitan Court of Session. The Government may likewise choose Additional Sessions Judge and Joint Sessions Judges to practice Jurisdiction in at least one such Courts.

4.1.10 Magistrate Courts

Courts of Metropolitan Magistrate in Metropolitan Area:

Chief Metropolitan Magistrate's Court.

Additional Chief Metropolitan Magistrate's Court.

Metropolitan Magistrate's Court.

Courts of magistrate in District Area:

Chief Judicial Magistrate Court.

Additional Chief Judicial Magistrate Court.

First Class Judicial Magistrate' Court.

Second Class Judicial Magistrate' Court.

Third Class Judicial Magistrate' Court.

4.1.11 Tribunals in Bangladesh

The Government established various types of tribunals, namely,

1. The Administrative Tribunals.¹⁰
2. Druto Bichar Tribunal or The Speedy Trial Tribunal¹¹
3. Nari-o-Shisho-Nirzatan Daman Tribunal.¹²
4. The Speedy Tribunal.¹³

¹⁰ Art. 117, *The Constitution of the People's Republic of Bangladesh*.

¹¹ *The Speedy Trial Tribunal Ordinance, 2002*.

¹² *The Nari-O-Shisho-Nirjatan-Domon Ain, 2000*.

5. Land Survey Tribunal.¹⁴
6. Labour Courts and Tribunal.¹⁵
7. The Acid Approach Domon Tribunal.¹⁶
8. The Acid Violation Prevention Tribunal.¹⁷
9. The Customs Tribunal.¹⁸

4.2.1 Special Courts in Bangladesh

Special Courts refers to such courts which have been designed or established for a particular purpose. There are some special courts in Bangladesh which have been established by the respective enactment. Special Courts may be of different types, such as –

1. Mobile Court.
2. Small Causes Court.
3. Family Courts.
4. Village Court.
5. The Conciliation Board.
6. The Juvenile Court.
7. Environment Court.
8. Settlement Court.
9. Bankruptcy Court.
10. The Court of Special Judge.
11. Artha Rin Adalat.
12. Money Laundering Court.
13. Electricity Court.¹⁹

¹³ *The Special Powers Act, 1974.*

¹⁴ Chapter (XVIIA) 17A. and sections (145A to 145I) of *The State Acquisition And Tenancy Act, 1950.*

¹⁵ *The Bangladesh Labour Code, 2006.*

¹⁸ *The Customs Act, 1969 and The Mulya Songjojon Kar Ain, 1991.*

4.2.2 Procedural law on police power and arrest

By and large a police can capture a blamed through a request for warrant. In any case, in specific conditions they can capture an individual without warrant that has been referenced in sec-54 of the Code of Criminal Procedure, 1898 and Special Powers Act, 1974. Segment 54: When police capture without warrant.-

(1) Any police may, without a request from a Magistrate and without a warrant capture

To begin with, any individual who has been worried in any cognizable offense or against whom a sensible objection has been made or tenable data has been gotten or a sensible doubt exists of his hurling been so concerned;

Furthermore, any individual possessing without legal reason, the weight of demonstrating which pardon will lie on such individual, any execute of lodging breaking;

Thirdly, any individual who has been declared as an offender either under this code or by request of the Government;

Fourthly, any individual in whose possession anything is discovered which may sensibly be suspected to be stolen property and who may sensibly be associated with having submitted an offense with reference to such thing;

Fifthly, any individual who impedes a cop while in the execution of his obligation, or who has gotten away, or endeavors to get away, from legal authority;

¹⁹ Pendse, *Oaths and Ordeals in Dharamsastra*, 11 ed. (M.S. University: Baroda Publication, 1985), p.24

Sixthly, any individual sensibly associated with being a miscreant from the military of Bangladesh;

Seventhly, any individual who has been worried in, or²⁰ against whom a sensible objection has been made or tenable data has been gotten or sensible doubt exists of his having been worried in, any demonstrations submitted at any spots out of Bangladesh, which, whenever submitted in Bangladesh, would have been culpable as an any offense, and for which he is, under any law identifying with removal or under the Fugitive Offenders Act, 1881, or generally at risk to be caught or confined in care in Bangladesh;

Eighthly, any discharged convict submitting a rupture of any standard under area 565, sub-segment (3);

Ninthly, any individual for whose capture an order has been gotten from another cop, gave that the demand indicated the individual to be captured and the offense or other reason for which the capture is to be made and it shows up there from that the individual may legally be captured without a warrant by the officer who issued the demand.

4.2.3 Procedural law on remand

As mentioned above that the ‘remand’ can be allowed under section- 167 of the Code of Criminal Procedure, 1898.²¹

Section-167: Procedure when investigation cannot be completed in 24 hours:

1. Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of 24 hours fixed by section- 61 and there are ground to believe that the accusation or information is well founded, the officer-in-charge of the police station or the police officer making the

²⁰ *Theory of Criminal Justice*, 7th ed. (New York: Oxford University Press, 2004), p.124.

²¹ *The Code of Criminal Procedure, 1898* (Act No.V of 1898).

investigation if he is not below the rank of sub-inspector shall forthwith transmit to the nearest judicial magistrate a copy of the entries in the diary hereinafter prescribed relating to the case and shall at the same time forward the accused to such magistrate.

2. The magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time authorize the detention of the accused in such custody as such magistrate thinks fit for a term not exceeding 15 days in the whole. If he has no jurisdiction to try the case or end it for trial and consider further detention unnecessary may order the accused to be forwarded to magistrate having such jurisdiction:

Provided that, no magistrate of the third class and no Magistrate of the second class by the Government shall authorize detention in the custody of the police.

3. A magistrate authorizing under this section detention in the custody of the police shall record his reason for so doing.

²² 4. If such order is given by a magistrate other than the Chief metropolitan Magistrate or the Chief Judicial Magistrate, he shall forward the copy of his order, with his reasons for making it to the Chief Judicial Magistrate to whom he is subordinate.

4A. If such order is given by a Chief metropolitan Magistrate or the Chief Judicial Magistrate, he shall forward a copy of his order, with reasons for making it to the Metropolitan Session Judge or to the Session Judge to whom he is subordinate.

5. If the investigation is not concluded within 120 days from the date of receipt of the information relating to the commission of the offence or the order of the magistrate for such investigation-

a) the magistrate empowered to take cognizance of such offence or making the order for investigation may, if the offence to which the investigation relates is not punishable with death, imprisonment for life or imprisonment exceeding ten years, release the accused on bail on the satisfaction of such magistrate, and

²² Section 16, *ibid*.

b) The Court of Session may if the offence to which the investigation relates is punishable with death, imprisonment for life or imprisonment exceeding ten²³ years, release the accused on bail on the satisfaction of such court²⁴. Provided that if an accused is not released on bail under this sub-section, the magistrate or as the case may be, the Court of Session shall record the reason for it:

Provided further that, in cases in which sanction of appropriate authority is required to be obtained under the provisions of the relevant law for prosecution of this accused, the time takes for obtaining such sanction shall be excluded for period specified in this sub-section.²⁵

²³ Section 11, *ibid*.

²⁴ ²⁴ Article 37 and 40 of *The Convention on the Rights of the Child* 1989 spell out the rights of children in conflict with the law and ensure basic guarantees and legal and other assistance for their defense.

²⁵ *Criminology and Penology*, 3rd ed. (Allahabad: Central Law Publication, 2002), p.6.

Chapter 5

CONCLUSION

Usually conviction that a wrongdoing is anything which is known as a wrongdoing, and a criminal punishment is basically the punishment accommodated doing anything which has been given that name. What recognizes a criminal from a common endorse is the judgment of the network judgment which goes with and legitimizes its burden. It is the declaration of the network scorn, dread, or disdain for the convict which alone describes physical hardship as discipline. On the off chance that this is the thing that 'criminal' punishment is, we can state promptly enough that a wrongdoing isn't just anything which a council calls a wrongdoing. It isn't just antisocial direct which open officers are given an obligation to smother. It is lead which, if appropriately appeared to have occurred, will acquire a formal and grave declaration of the ethical judgment of the network. Be that as it may, who decides the 'network'? What is the network?

This inquiry, to my psyche, is key to law. At the point when the policeman, the examiner, the judge or the restorative official exercise the circumspection, gave on them by law, their view on what a wrongdoing is, and why hoodlums are rebuffed, decide how they practice their purview and tact. Consequently the theory fundamental criminal law must be enunciated and surely knew before we can manage wrongdoing and discipline in a significant way.

It won't be a revelation to express that sec. 54 of the Code of Criminal Procedure Code is everyone's bad dream. In the expressions of Justice Mustafa Kamal:

"A typical police appreciates" in regard of a typical man more noteworthy forces than even the President, Prime Minister, and Members of the Parliament, Judges or high officials of the nation. He can go into your home looking for unlawful arms or stolen products. He can stop you in the road and inquiry your body. He

can call you to the police headquarters. He can confine you in hajat. He can capture you and arraign you. On the off chance that you are not living in a blockheads heaven you need to yield these forces to the police, enthusiastically or reluctantly, and when the police utilizes these forces he has the help of a law behind these activities."

How might you accommodate this announcement with the choices in *Md. Humayan Kabir v. The State* in which Mr. Equity Ruhul Islam articulates:

"Freedom of natives can be contained just as per the law however not in colorable exercise of the power presented under the law."

The governing body in present day vote based system replaces the network. The governing body condemns and after that decriminalizes demonstrations or activities, decides the area of criminal law. What's more, our psyches have been colonized by undaunted faithfulness to this dee²⁷p rooted, antiquated, minority opposite lion's share intrigue situated impression of the organization of criminal equity. Ought not we to decolonize are minds at that point and begin scrutinizing the up to this point acknowledged standards, thoughts and speculations of criminal equity?

From the above dialog it turns out to be certain that not just the lawful rights given by different laws yet in addition the human privileges of the juveniles and blamed have been disregarding from quite a while in Bangladesh.

Bangladesh being the signatories of a large portion of the traditions, it is mandatory for us to execute these arrangements in our national enactment. However, it is matter of disappointment that these universal measures are not entirely followed in Bangladesh.

²⁷²⁷²⁷ *Ibid*, Article 3. Sumaiya Khair, *ibid*, pp.55-76.

As it referenced above in antiquated occasions, kids were tossed into prisons with grown-ups. Long haul detainment and flogging were extremely normal. Indeed, even some of them were so unfortunate to be hanged to death for their violations. Reformers worried about the brutal treatment of kids encouraged the foundation of a different court framework for juveniles. The thought behind juvenile court was that youngsters stuck in an unfortunate situation with the law ought to be helped as opposed to rebuffed. Integral to the idea of juvenile court was the standard of parent's patria. This implied rather than legal advisors battling to choose blame or honesty, the court would go about as a parent or gatekeeper keen on securing and helping the youngster. Hearing would be shut to people in general. Continuing would be casual. Whenever indicted, kids would be isolated from grown-up lawbreakers.

In a general public represented by the idea of principle of law, it is no uncertainty important to secure the blamed with a specific sum for least shield, and yet it is likewise officeholder upon the general public to see that equity is done to the distressed native by effectively conveying the villains to book. Also, if for accomplishing this end the law, both subs²⁸tantive and procedural, requires to be changed, a dynamic and procedural, requires to be altered, a dynamic culture, having due respect for the bigger social great, ought not waver to do such fundamental changes so as to make the law a viable instrument of social equity.

²⁸ Section 48 of *the Children Act, 1974*

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