

**Research Monograph**  
**On**  
**Constitutional Protection of Civil and Political Rights: A Study**  
**of Modern Constitution**

**Research Monograph Submitted for the partial fulfillment of the award of the degree**

**in**

**LL.B. (Hon's)**  
**Department of Law**  
**Sonargaon University (SU)**

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## Letter of Transmittal

To

**Sunzida Akhter**

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Subject: Submission of Research Monograph on “**Constitutional Protection of Civil and Political Rights: A Study of Modern Constitution**”

Dear Sir,

This is a great pleasure to submit the Research Monograph on “**Constitutional Protection of Civil and Political Rights: A Study of Modern Constitution**” as a partial requirement for the fulfillment of my LL.B. course under the Department of Law of the Sonargaon University (SU).

I have given due efforts to make this Research Monograph as fruitful one and to make it as informative as possible. I hope that this paper will not be the formality of academic course completion rather, it will be a source of information for other purpose on this topic.

Yours sincerely

.....  
**Md. Omar faruk**

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## **Declaration**

I do hereby declare that the Research Monograph Title “**Constitutional Protection of Civil and Political Rights: A Study of Modern Constitution**” prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL.B. (Hon’s) Degree. This is an original work of mine. No part of this research, in any way or in form, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

.....  
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## **Supervisor Certificate**

This is to certify that the work presented in this dissertation is based on the work, carried out by the author herself under my supervision in Department of Law, Sonargaon University (SU).

It is also certifying that the work presented here is original and suitable for submission as the style and contents, for fulfillment of LL.B. program.

.....

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## **Acknowledgement**

**\*In the name of Allah, the Beneficent, the Merciful\***. Praise by Allah & thanks to Allah for patronizing me to finish this Research Monograph. I am very happy to finish it. It is a great Research of my life. It is a long cherished hope of my life to become a great lawyer. That's why I have admitted in the Department of Law in Sonargaon University (SU) to fulfill my dream. But through my whole study life in this field, I did not get much more opportunities to examine and show my knowledge and skill in this wide field. Lastly I have got a great chance to make my study meaningful when I got the chance to prepare a Research Monograph on **Constitutional Protection of Civil and Political Rights: A Study of Modern Constitution**

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Thank you

.....  
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## **Abstract**

This paper explores the intricate relationship between morality and crime, examining how ethical principles, social norms, and legal frameworks intersect in the definition, prevention, and response to criminal behavior. It investigates various moral theories, including moral absolutism, relativism, utilitarianism, and deontology, and their implications for understanding crime. The analysis also highlights the role of legal systems in defining crime, distinguishing between legal positivism and social contract theories, and considers how laws may or may not align with broader moral values. Additionally, the paper addresses the concept of crime as both a moral failure and a social construct, exploring how cultural and societal contexts influence the criminalization of certain behaviors. Key challenges, such as the ethics of punishment, rehabilitation, and discriminatory laws, are discussed to reflect on the moral complexities surrounding crime and justice. Ultimately, the paper emphasizes the need for a balanced approach to lawmaking and crime prevention, one that accounts for both moral principles and the practical realities of social order and individual rights.

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# Chapter 1

## Introduction

### 1.1 Introduction

Politics and crime are two different concepts of different discipline. Politics deals with the acquisition of State power and Crime deals with the acts or omission those are prohibited by the law of a State with some sorts of punishment. It appears in different countries that the meaning of these two terms are changing and to some extent merging to each other. The politicians in the course of their political activities commit enormous number of crime of ordinary nature and number of legally undefined crime having long-term impact on the society at large. The paper tries to find out the crimes specifically for which the politician are exclusively responsible including the pattern of crime committed both by ruling and opposition. Different ordinary crimes, political violence, extra judicial killings, crossfire, gunfight, enforced disappearance is analyzed considering the context with empirical evidence. The relationship between increasing corruption and increasing participation of businessman found correlated. Complete criminalization of politics, politicization of State organs administration and judiciary which constitute the subculture of the politicians of Bangladesh. In sum this paper tries to see crime in existing politics in a grand scale by lance of a criminologist in order to reveal the crime in politics of contemporary Bangladesh.<sup>1</sup>

Political crimes is not a recent phenomenon in Bangladesh though the academic debate over the issue of crimes as well as literature in this regard is not enough. Political crimes is a topic of interest and concern in academic arenas, in the media, among people of different professions, within the civil service, among members of parliament, politicians, government officials, members of the business and financial communities, students, foreign investors, aid agencies and non-governmental organizations (Zakiuddin, 2002).

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<sup>1</sup> Ahamed, Emajuddin. 2000. *Bureaucratic Elite*. Dhaka: Gathidhara.

A general impression conveyed by the media and by popular discourse is that among ordinary people in Bangladesh, political crimes is viewed quite clearly as 'a way of life'. A recent survey carried out by the Bangladesh Unnayan Parishad reinforces that impression: the survey found, among other significant data, that 95 percent of respondents believed that the police were the most corrupt department in the land, followed very closely by the customs, the department of excise and taxation, the bureaucracy, and the judiciary. A solid 62 per cent of respondents believed that the primary responsibility for crimes in Bangladesh lay in the hands of government officials. The extent to which crimes has become accepted as 'a way of life' in Bangladesh is challenging in its implications. A recently published feature on crimes in a leading weekend magazine, entitled, 'Crimes of Politics and Politics of Crimes ' consisted of a virtual litany of dubious deals, underhand agreements and blatantly corrupt acts by political leaders and parties in Bangladesh, from the infamous regime of H.M Ershad, to the present leadership as well. But surprisingly, both the media report and the research conducted by the Bangladesh Unnayan Parishad, upon which it was partly based, appear to have generated little reaction.<sup>2</sup> Certainly, there were no reports of a public outcry, not even a barrage of letters or telephone calls in response to these successive and extremely challenging expressions of public opinion and media analysis. Does this mean that the people of Bangladesh are unmoved by the all-pervasive level of crimes in their polity? Or have they become so immune to its horrors, so cynical about what they perceive to be the unhappy reality of their lives, which they have ceased to care? Whatever the reasons, people appear extremely reluctant to believe that anything can be done about crimes . Perhaps this is one reason for a marked absence of objective, analytical literature on crimes as a social exchange or process. There are, of course, other reasons. But generally speaking, there is a tendency to focus on the enormity of the problem, on the normative aspects of crimes , on the (undoubtedly) negative impact of crimes and indeed, to perpetuate the notion that crimes is its own culprit. The media report mentioned above, for instance, states at the outset that 'Crimes , in our view, lies at the root of the overall degeneration of politics and of a section of our politicians that we see today.' Thus, crimes is seen both as the root and as the effect of a situation, with the result that its

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<sup>2</sup> Jalal, Hussain, 1990. "Political Crimes ." [www.wcor.org/pol/cor](http://www.wcor.org/pol/cor). as viewed on 05.10.2008.

salient features are often masked and its behavioral patterns difficult to discern (Silva de, 2000). Indeed, as far as Bangladesh is concerned, little is known about the manner in which crimes occurs, the process by which, presumably, it grows and flourishes, the conditions, which are conducive to its existence and the structures, which support its survival. Little is known about crimes as a process, as practice and as structural outcome. It can be said, therefore, that there is inconsequential independent appraisal of crimes as a social phenomenon in this country. Whatever independent or neutral discussion has been generated tends to focus mainly on the political or economic aspects of crimes . Certainly, very few academic works have been devoted towards obtaining empirically sound, theoretical analyses of the subject from a sociological perspective with special reference to Bangladesh. Based on secondary data, the present study aims at exploring the causes and effects of crimes in Bangladesh.<sup>3</sup>

## **1.2 Statement of the Problem**

Political crimes is a key challenge against sustainable development in Bangladesh. It is not a new phenomenon in Bangladesh. It may be recalled that Bangladesh was earlier placed at the bottom of the list or the fifth successive years from 2001-20005. TIB has released its annual crimes perception Index (CPI) for 2015. The result shows that Bangladesh has scored 2.0 points in a scale of 0-10 and has been ranked 7<sup>th</sup> from below which is 162<sup>nd</sup> among 180 countries included in the index this year. Bangladesh ranking has improved from the last year's 3<sup>rd</sup> to the 7<sup>th</sup> this years but the score has remained steady at 2.0 (TIB, 2007). Political crimes is impeding here all efforts to reduce massive poverty by reducing economic growth and devastating the achievement of the country. Political leaders are in most cases engaged in crimes in many ways whereas entering of the non-professional persons into politics is making the situation more severe.

To provide an understanding of political crimes from a sociological perspective, it would be necessary to examine, explore and critically analyze political crimes as a process of social formation, encompassing crimes in the real world of social structures, institutions and modes of exchange, and at the same time, to also locate

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<sup>3</sup> Cyber act, 2023 in bd.

and reconcile the reality within an analytical framework which would critically explore the discourse on political crimes.

Political crimes is not identifiable as a single, separate, independent entity, which can be isolated and destroyed. Crimes is a complex set of processes involving human behavior and many other variables, some of which are difficult to recognize or measure. Even though political crimes manifests itself as a force on its own and often generates its own momentum, it is linked to many other factors, and it is by understanding these factors that we can hope to understand political crimes . Understanding political crimes is therefore the first step in eradicating or, at least, containing crimes . In order to understand crimes , we have to first define it. There are several meanings of the word political crimes but when we use the term, we usually refer to a specific kind of exchange, activity or behavior. For instance, political crimes could mean a process of physical decay or degeneration; the loss of innocence; a state of moral impurity or moral deterioration; perversion in taste or language; and also the wrongful, negligent or willfully corrupt act of a politician in the discharge of his or her duties.<sup>4</sup> It is this last meaning of political crimes , as the destruction of integrity in the discharge of politician's duties (Theobald, 1990), which features most often in our language. Defined also as 'the misuse of public power for private profit', it is this specific definition of political crimes , which dominates our interpretation of the term. Therefore, when we discuss political crimes in Bangladesh, we are referring to the exchange, activity, process or behavior, which occurs when the public domain comes into contact with the private domain. From this definition, it is obvious that political crimes carries within it several assumptions - of a 'public' as opposed to a 'private' domain; an official code of behavior as opposed to an unofficial code of behavior; the existence of a public or state apparatus; and even the existence of a particular kind of social, economic and political organization (within which the public and private can operate smoothly). These assumptions, embodied in the popular meaning of crimes , are significant because definitions aside, when it comes to dealing with crimes - at the political, economic and certainly, at the sociological level - it is often difficult to decide exactly what constitutes crimes . For example, a question, which is frequently posed, is whether crimes is an age-old practice or a relatively new innovation. In the

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<sup>4</sup> Muhith, A. M. A. 2001. Issues of Governance in Bangladesh, Dhaka: Moulla Brothers, 1991.

specific definition, which we use most commonly both in our lexicon and in this Study, crimes can only apply to a situation in which there is a clear and specific demarcation between the 'public' and the 'private'. In 'pre-modern' times, when political organization was based on kingship, there was no clear demarcation between the ruler's public and private duties, rights or responsibilities. Yet, there is evidence that crimes did exist in 'pre-modern' times (Theobald, 1990). So was the political crimes of an earlier era a different kind of crimes and if so, what made it different? How can we distinguish between the older and newer versions of political crimes? In answer to these questions it may be said that yes, what constituted political crimes in an earlier era was different from what constitutes political crimes now in the sense that the present notion of political crimes - as the 'misuse of public office for private profit' - has emerged as a result of a particular historical context and socio-economic circumstances. This historically specific notion is discussed in some detail below, but what can be stated here is that political crimes as we define it now can be distinguished from the older variety, so to speak, mainly because it rests on the fundamental assumption that the world is divided into distinct, 'public' and 'private' spheres of influence. In fact, it must be noted that in our quest to understand political crimes , it is this very assumption, which presents the most obvious challenge because, as we will discuss below, the question of what is 'public' and what is 'private' is open to much interpretation. At this stage, it can be summarized that while we do have a specific meaning of crimes as a starting point for our discussion, what constitutes crimes within the parameters of the specific definition depends on a number of variables. Consequently, the specific definition, which we use, is itself problematic and subject to debate.<sup>5</sup>

### **1.3 Research Quotation**

It is to be mentioned that there are a little research contribution in the field of Political Crime and Criminology in Bangladesh. This study in an attempt of mitigate to research gap. Given emphasis in these problems, the following research questions are found relevant of this study:

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<sup>5</sup> Ahmed, Moudud. 1983. Bangladesh: Era of Sheikh Mujibur Rahman. Dhaka: UPL

- What is the nature and extent of Political Crime and Criminology in Bangladesh?
- How far the existing Political Crime and Criminology in Bangladesh fulfilled the demand of situation?
- Why the existing divorce does not fulfill the present demanded situation?
- How can be the Political Crime and Criminology be made harmonies and standard for Bangladesh

#### **1.4 Objectives of the Study**

##### **Core objective:**

The main objective of this study in to Political Crime and Criminology of Bangladesh.

##### **Specific objectives:**

- i. To evaluate the present political situation and crime in Bangladesh.
- ii. To clarify why the present laws cannot meet up the demand level up to expectation and to find out the loopholes of existing laws.
- iii. To suggest and adaptable solution to enrich the laws and to upgrade implementation level of the laws.

#### **1.5 Methodology of Study**

This research is a mixed method in nature. Content analysis method have been be used to analyze the existing laws. Both qualitative and quantitative data have been used for validly and reliability of research work. Necessary data for this research have been taken from both secondary and primary sources. The primary source of data have been taken from Political Crimes, Election Commission Secretariat Act 2009, Criminal Investigating Department, Penal Code, 1860 and other related legislations. The secondary sources of data have been taken from relevant books, journals, reports, published or unpublished thesis, dissertation, newspaper, different websites and data from various official and unofficial sources.

## 1.6 Conceptual Framework

The Annotated Bibliography in this Study establishes the reality of crimes as a social phenomenon in Bangladesh. Crimes is not just an economic exchange, generated by a monetary or 'economic' motive. Neither is crimes an exclusively political activity, motivated by a desire to attain or retain political power. The process of crimes is more than economic or political - it is a social process as well, existing side-by-side with, and sometimes complementing economic and political activity. As a social process, therefore, crimes is everywhere in Bangladesh. It is present, for instance, in the process of political patronage, and/or the socio-political institutional arrangement called a patron-client relationship, through which public resources are appropriated by a select group of people, usually described as elites; it is visible in economic exchanges such as the process of rent-seeking which (regulatory requirements by) public servants impose on players in the market: also known as ghoosh (bribe); it is visible and invisible in a host of activities which range from outright bribery to more subtle forms of patronage or persuasion such as tadbir, from underhand deals involving vast sums of money at the national and international levels, to petty, everyday baksheesh which the doorman at a bureaucrat's office extracts in order to perform his normal duties. Yet, as the Annotated Bibliography will also disclose, there is very little objective analysis to explain why and how there is crimes in Bangladesh.<sup>6</sup> This is not because there are no reasons attributed for crimes . On the contrary, a majority of works either directly or indirectly attribute several causes and advance various theories for the existence and survival of crimes . But attempts to understand the fundamental social processes which are related to crimes are notably absent For instance, the dichotomy of 'good' versus 'evil' is a popular theme in many works - both in those few works (mainly articles and reports) which specifically address the issue of political crimes in Bangladesh, as well as in a large number of books, journal articles and reports, which make references to crimes , while examining other issues such as socio-economic or political events, poverty or development in Bangladesh. In these works, crimes frequently features as a vice, caused by human failings such as greed, avarice, selfishness, self-interest, callousness, and consequently, its eradication is seen to require actions which are virtuous, such as

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<sup>6</sup> Muhith, A. M. A. 2001. *Issues of Governance in Bangladesh*, Dhaka: Moulla Brothers, 1991.

nobility, patriotism, dedication, honesty, integrity, zeal, and so on. Some works rely on 'modernization' theory as their basis, implying that countries like Bangladesh have not progressed from a 'primitive' to a 'modern' state of polity and hence are still showing signs of 'traditional' forms of organization, among which crimes features prominently. At the same time, a number of authors blame capitalism and the quest for 'modernity' as the root causes of crimes . Many blame politicians, bureaucrats, the state apparatus, regulatory policies, political upheaval, tradition, culture and western influences for the prevailing 'high' level of crimes in Bangladesh. Indeed, although political crimes as social process is difficult - some would say impossible - to measure, many works allude to 'more' or 'increasing' levels of crimes in this country. In other words, while theories abound, only a few works are dedicated to studying political crimes as a process, removed from its normative implications. As a reading of the Annotated Bibliography will confirm, by far and large, wherever the issue of crimes is discussed - either in passing or as part of a dedicated section within a work - it is invariably dominated by its normative impact - as an immoral act or process, which has a negative effect and is thus socially reprehensible.

### **1.7 Rational of the Study**

Political crimes is like a disease, like cancer, which destroys the all of the possibilities of development. But no in-depth study was conducted on this issue in context Bangladesh. The present study can be considered as a good endeavor in this regard. Politicians and the policy makers, public as well as private officials, researchers may be benefited to find out valuable information about political crimes in context Bangladesh.

### **1.8 Limitations of the Study**

No research is completely free from inadequacies and limitations. Therefore, it cannot be claimed so. So far the knowledge goes, no in-depth research on political crimes in context of Bangladesh has been taken. A lot of difficulties had to face to complete this research. Very much limited time, scarcity of relevant research literatures were most of the difficulties. As a result, the researcher had to depend on the source of Internet, but enough literatures could not be collected from this source also. Keeping these in mind the research will explore a path in realizing the social problem of political crimes in context of Bangladesh

# Chapter 2

## Political Crime and Criminology

### 2.1 Definition of White Collar Crime

The concept of “white collar crime” found its place in criminology for the first time in 1941 when Sutherland published his research paper on white collar criminality in the American Sociological Review. He defined “White Collar Crime as a crime committed by persons of respectability and high social status in course of their occupation”. A white collar criminal belongs to upper socio-economic class who violates the criminal law while conducting his professional activities. Thus misrepresentation through fraudulent advertisements, infringement of patents, copyrights and trade-marks etc, are frequently resorted to by manufacturers, industrialists and other persons of repute in course of their occupation with a view to earning huge profits. Other illustrations of white collar criminality include publication of fabricated balance sheets and profit and loss account of business, passing of goods, concealment of defects in the commodity for sale etc.<sup>7</sup>

Sutherland further pointed out that a white collar crime is more dangerous to society than ordinary crimes because the financial loss to society from white collar crimes is far greater than the financial loss from burglaries, robberies larcenies etc. the most dismal aspect of white collar crimes is that there is no effective programme for the enforcement of criminal law against them and the influential persons involved in these crimes are able to resist enforcement of law against themselves.

These white collar crimes by their very nature are such that the injury or damage caused as a result of them is so widely diffused in the large body of society that their gravity in regard to individual victim is almost negligible. It is probably for this reason that till late these crimes did not attract much attention as they do not carry with them any loss of social status of the offender even if he is caught or detected. There is yet another reason for white collar criminals escaping prosecution. In cases of

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<sup>7</sup> Guhan, Graham and John Paul. 1997. Inside of Political Crimes. New York: John Wiley.

misrepresentation, concealment or fraud etc. the courts usually place reliance on the principle of caveat-emptor, which signifies that the purchaser must enter into a deal with open eyes and guard himself against ordinary dishonesty of the vendor. As a result of this attitude of the courts there was enormous increase in white collar crime during the period of depression in 1930's in United States. Perhaps it is for this reason that American President Roosevelt in 1933 insisted on withdrawal of the doctrine of caveat-emptor from adjudication of cases involving white collar crime (Theobald, 1990)

Sir Walter Reckless, an eminent American criminologist suggests that white collar crime represents the offences of businessmen who are in a position to determine the policies and activities of business. Some authorities suggest that white collar crimes are committed by persons of status not for need but for greed.

Referring to this variety for the upper world of crime, Barnes and Teaters quoted Lord Acton who said “ power tends to corrupt and absolute power tends to corrupt absolutely.”<sup>8</sup>

Sutherland gave a concrete list of different categories of white collar crime. This type of criminality is said to take place in i) misrepresentation of the financial statements of corporations ii) manipulation of the stock exchange iii) the bribery of public officials to secure desirable contracts or immunities iv) bribery in commercial transaction v) misrepresentation in advertising and salesmanship vi) embezzlement and misuse of trust funds vii) in dishonest bankruptcies and so on. He argued that “white collar criminals are relatively immune (from criminal conviction) because of the class bias of the courts and the power of their class to influence. The implementation and administration of law. Usual consequences of this class bias is that crimes of upper class dealt with differently than the lower class. Such as lower class crimes dealt with by policemen, prosecutors and judges with penal sanctions in the form of fines, imprisonment and death penalty. But on the other hand the upper class crimes not exactly in same way. May be it solves in unofficially or may be results in suit for

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<sup>8</sup> Siddiqui, Kamal. 2014. Towards Good Governance in Bangladesh. Dhaka: UPL.

damages in civil courts, or are handled by inspectors and by administrative boards or commissions with penal sanctions in the form of warnings, orders to cease and desist.

## **2.2 Terminological Problem:**

### **2.2.1 Is White Collar Crime Crime?**

The behaviors pertaining to white-collar crime sometimes do not result in criminal conviction and sometimes do not violate the criminal law. After introducing the term Sutherland was subjected to severe criticism, which compelled him to define his proposition and after 5 years he responded to those criticism by his article titling “Is ‘White-Collar Crime’ Crime?” Sutherland first presented the violations of law by 70 major American corporations, and then he attempted to prove why these violations constituted crime. The violation constituted crime, Sutherland argued, because (1) they were injurious to public as per the definition of law; (2) there were prescribed penalties for such violations; and (3) the behavior constituting white-collar crime was willful and intentional.<sup>9</sup>

Though Sutherland categorically placed strong argument why and how violations of upper class people constitute white-collar crimes, but controversy surrounding white-collar crime did not disappear. In criminological discourse controversy has been projected by two principal types of criticisms. The first criticism is that the definition of white-collar crime is ambiguous and uncertain, so the term is useless for research purposes second criticism tells that the term has a tendency to ignore the distinction between civil and criminal actions. Burgess and Tappan missed the fundamental point of Sutherland as he insisted that he did not attempt to reform the society, rather he attempted to reform the theory of criminal behavior through his analysis of white-collar crime. A scientifically adequate theory of criminal behavior explains all criminal behaviors that have the essential characteristics of a crime whether the criminal justice agencies defined those as crime or not. Sutherland reviewed white-collar crimes of upper class and common crimes of lower class and concluded that “The crimes of the two classes differ in incidentals rather those essentials. They differ principally in the implementation of the criminal laws which apply to them.

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<sup>9</sup> Ibid. p. 33

## **2.3 Kinds of White Collar Crime**

Appelbaum and Chambliss call attention to two types of white-collar crime.

### **a. Occupational Crime**

Occupational crime occurs when crimes are committed to promote personal interests. Crimes that fall into this category include altering books by accountants and overcharging or cheating clients by lawyers.

### **b. Organizational or Corporate Crime**

A much more costly type of white collar crime occurs when corporate executives commit criminal acts to benefit their company. There are a variety of corporate crimes that include

- The creation of inferior products,
- Pollution,
- Price fixing.
- Tobacco companies that add nicotine to cigarettes
- When companies advertise food as "lite" when it has as many calories as regular food.<sup>10</sup>

## **2.4 Relationship to Other Types of Crime**

### **2.4.1 Blue Collar Crime**

The types of crime committed are a function of the opportunities available to the potential offender. Thus, those employed in relatively unskilled environments and living in inner-city areas have fewer "situations" to exploit than those who work in "situations" where large financial transactions occur and live in areas where there is relative prosperity. Note that Newman (2003) applies the Situational Crime Prevention strategy to e-crime where the opportunities can be more evenly distributed between the classes. Blue-collar crime tends to be more obvious and attract more active police attention (e.g. for crimes such as vandalism or shoplifting which protect property interests), whereas white-collar employees can intermingle legitimate and criminal behavior and be less obvious when committing the crime. Thus, blue-collar crime will more often use physical force whereas in the corporate world, the identification of a victim is less obvious and the issue of reporting is complicated by a

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<sup>10</sup> Siddiqui, Kamal. 2014. Towards Good Governance in Bangladesh. Dhaka: UPL.

culture of commercial confidentiality to protect shareholder value. It is estimated that a great deal of white collar crime is undetected or, if detected, it is not reported. In the truest sense, the terms white and blue collar crime refers to police slang for an arrest of a suspect, or collar. Blue collar crimes are those that involve local police (known for wearing blue, or, "Men in Blue") and white collar crimes are those involving Federal agents, such as FBI (who typically wear suits and ties with white shirts).<sup>11</sup>

#### **2.4.2 State Corporate Crime**

Because the negotiation of agreements between a state and a corporation will be at a relatively senior level on both sides, this is almost exclusive a white-collar "situation" which offers the opportunity for crime.

#### **2.5 White-Collar Crime/Corporate: Correlative Features**

- White-collar crime tends to be made up of complex, sophisticated, and relatively technical actions.
- White-collar crime tends to be intermingled with legitimate behavior
- Victimization tends to be diffuse. Harm is not always conceptualized or identifiable as such because it is usually spread out over a substantial number of victims.
- The monetary sums that are involved tend to be quite large. i.e. Michael Milken, Ken Lay
  - White-collar criminals steal by manipulating symbols rather than objects
  - White collar crime occurs extends over time
- White-collar crime is rarely prosecuted and rarely convicted. Penalties are light.
- With respect to perception and prosecution, evidence indicating that they have taken place is not as clear-cut as with street crime.
- Limited media coverage
- Corporate criminals are not heavily stigmatized: they don't acquire "criminal identities."

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<sup>11</sup> [http://en.wikipedia.org/wiki/White-collar\\_crime](http://en.wikipedia.org/wiki/White-collar_crime) last viewed on 14 November,2009

- Relative to their incidence, arrests are very rarely made

The Federal U.S. Sentencing Commission found that for white collar crimes prosecuted by federal courts between 1984- and 1987, sentences against convicted corporations tended to be extremely light; nearly half entailed a fine of \$5,000 or less, 80% were fined \$25,000 or less, and even probation against executives was imposed less than one-fifth of the time. Jail or prison time tends to be almost nonexistent.

## **2.6 Crime within Professional Occupations**

- All occupations that are classified, as professions require advanced usually graduate training and all practitioner possess a specialized skill that is not accessible to the general public.
- All are governed by an ethical code that places service above self-interest
- All have a system of licensing that permits only qualified and presumably ethical to practice
- All deal with clients - paying customers who look to the professional for help.
- The professions stand at the top of the occupational prestige hierarchy, their practitioners are respected members of their community
- The most common form of professional crime is fraud. Prescription violations, unnecessary Surgery and Medicaid fraud. In the United States Medicaid Fraud cost \$40 billion annually (1993).<sup>12</sup>

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<sup>12</sup> Silva de, K. M. 2000. "The Early Failure of Democracy, 1971-1982." V. A. Paipanandiker (Edt.), Problems of Governance iuin South Asia. Dhaka: UPL.

# Chapter 3

## Political Crime and Criminology

### 3.1 Present Situation of White Collar Crime in Bangladesh

In Bangladesh white collar crimes, in contrast to blue collar crimes, are on the rise. Here politics has criminalized and corruption has taken strong hold. Transparency International, a German based non-governmental organization, has identified Bangladesh as the most corrupt country in the world for consecutive five years. But in this year it increased and positioned after ten People of upper socio-economic class, ruling elites and people of different groups are committing white collar crimes. They are making huge amount of money by corruption, manipulation and abuse of power causing severe detriment to national economy. The latest size of black money in the country stands at least taka 60,000 crores, a volume which is equivalent to one-third of the gross national income. Their crimes are insufficiently focused, most of the time undetected and remain beyond the domain of legal process. They are very influential in terms of power and money.<sup>13</sup>

In Bangladesh, not only the people of upper socio economic class are involved in white collar crime, the people from top to bottom are practicing this vice, so far corruption, bribery and other malpractices are concerned. All the categories of white collar crimes are present here, but corruption occupies the most prominent place. In identifying and discussing white collar crime in Bangladesh, all pervasive corruption has taken the foremost priority. A person (acting individually or as a member of a group) is said to be engaged in corruption if he

- (i) enjoy any power or position which has been acquired through explicit contract or through solemn promise (stated or implied) in order that by virtue of them he can best protect or advance the goals of those persons or institutions on whose behalf he is required to act, but (ii) deliberately abuses his power or position to advance his personal or parochial interest.

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<sup>13</sup> [http://en.wikipedia.org/wiki/White-collar\\_crime](http://en.wikipedia.org/wiki/White-collar_crime) last viewed on 14 November,2009

If any person willfully abuses his power for personal or parochial gain, he is said to have committed an act of corruption. Though the term ‘corruption’ has many meanings, but usually it refers to a particular type of exchange, activity or behavior. “For instance, corruption could mean a process of physical decay or degeneration; the loss of innocence; a state of moral impurity or moral deterioration; perversion in taste or language; and also the wrongful, negligent or willfully corrupt act of a public official in the discharge of his or her public duties. In Bangladesh, corruption stands for ‘the misuse of public power for private profit.’ Corruption, in the reality of Bangladesh, refers to the exchange, activity, process or behavior which takes place when the public domain comes into contact with private domain.

Corruption has gained much currency –in discussion, newspaper reports, columns, rhetoric, but there is dearth of in-depth analysis, article, and empirical study to understand the problem. The causes of corruption, political, economic, and social, need to be identified, both in its origin and impact on the good governance and true development of Bangladesh. Some researchers try to explain corruption of Bangladesh in terms of ‘modernization’ theory. According to them, Bangladesh has not reached ‘modern’ state of policy, still it exists in primitive stage of development, hence showing signs of ‘traditional’ forms of organization, among which corruption occupies prominent place. Some authors hold that capitalism and search for ‘modernity’ give rise to corruption. Politicians, bureaucrats, the state apparatus, regulatory policies, political upheaval, tradition, culture and western influence have been also identified for high rate of corruption in Bangladesh.<sup>14</sup>

In addition to the above, some other causes seem to be plausible. Situation may compel to do corrupt practices in the context of gap between legitimate salary and real expenditure. Greed and unlimited desires, in the absence of sufficient social control, seem to contribute to corruption and its voluminous increase. Anomie and social control theorists suggest that when social control is either absent or weakens, it will lead to deregulation in the society, where many problems arise. Bangladesh is passing a transition—from its Endeavour to reach ‘modernity’ from ‘primitive’ stage, from

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<sup>14</sup> Sheikh Hafizur Rahaman Karzon, *ibid* p. 180

rural to urbanization, from agriculture to industrialization. This transition is conditioned by various maladies, including corruption.

Corruption is not a typical feature of less advanced developing societies, it is also present in developed societies. In those societies, corruption is less visible and confined within the people of upper socio-economic class. There the rich, wealthy and senior members of government, bureaucracy and civil society are involved in corrupt practices. Corruption in the developing societies is not restricted within an elite network, rather extends to various levels of socio-economic and political activity. “Corruption in these societies prevails at virtually every point of contact between the state and the market, or the public with the private. In Bangladesh, for instance, as has already been stated, there is ample evidence to show that corruption is not the exception to the rule. It is found at virtually every level of activity in which the state plays a role—from the national, political level to the far-flung rural level. Corruption permeates not only the relatively higher, politically sensitive, and sensitive aspects of state activity, but also its routine functions.”<sup>15</sup>

### **3.2 White Collar Crime in Certain Professions**

#### **3.2.1 Corruption of Politicians**

Politicians are the elected representatives of the people, repository of public confidence. As policy makers of the country, they are supposed to lead the nation towards a positive direction, to equip us for twenty first century. They should ensure good governance and true development of Bangladesh. Instead of dispensing their proper role, they are alleged to be involved in corrupt practices. As a class, politicians have been identified as the most corrupt section in many countries; Bangladesh is not an exception to this. In 2013, among the people involved in corruption, 8.1 percent were elected representatives. Among them 43.5 percent were UP (Union Parishad) chairman, 27.1 percent were UP members, 11.8 percent were municipality chairman, 8.2 percent were members of parliament, 4.7 percent were ministers, 1.8 percent was ward commissioners, 1.2 percent were city mayors.

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<sup>15</sup> Ibd. p. 28

Though politicians constitute very little portion (8.1%) of the total of corrupt people, that is due to their scanty number in the administration, as they are to lead different administrative units. Magnitude of their corruption and the loss they caused to national economy is great. In one of their report in 2002, Transparency International mentioned that politics has been commercialized and criminalized and politicians are involved in corruption. As a class politicians are the most corrupt section of the society. Transparency International has identified political parties as the most corrupt organizations of the world. It has conducted a survey on the people of 62 countries of the world. The people of 36 countries opinion that political organizations are the most corrupt among all the institutions (Sheikh Hafizur Rahaman Karzon, 1993).

Government high-ups in Bangladesh are involved in huge corruption, manipulation and abuse of power. Reports of newspapers have revealed series of corruption of the ministers of successive governments. As an outcome of their accusations against each other, politicians of major two political parties, Awami League and Bangladesh Nationalist Party, constitute the largest class of white collar criminals. Their accusations reveal their involvement in financial irregularities. Bangladesh Nationalist Party accused the Ministers of Awami League government to have involved in corruption. On January 23, 2002, the four party alliance governments published a “White Paper”, which subsumed 40 cases of financial irregularities, abuse of power and graft took place in different ministries, including the office of Prime Minister and all senior ministers of the government during 1996-200.<sup>16</sup>

The four-party coalition government published the third volume of “White Paper” on May 3, 2002. It highlighted 20 cases of corruption, irregularities and misuse of power allegedly committed during the Awami League regime. 10 out of 20 cases revealed financial irregularities, which involved an approximate amount of 2 thousand 7 hundred 10 crore and 54 lakh taka. The remaining 10 cases revealed abuse of power and administrative irregularities. An anti-corruption case was filed against former finance minister and minister for state and telecommunications affairs on March 27,

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<sup>16</sup> Sheikh Hafizur Rahaman Karzon, 1993

2002. By abusing power they are alleged to have caused a loss of taka 131 crore and 18 lakh of the state.<sup>17</sup>

Sheikh Hasina, Prime Minister and President of Awami League, accused the Last government for their involvement in graft. In a press conference on October 11, 2002 she alleged that the ministers of BNP-Jamaat government have pocketed 11 thousand crore taka in terms of money during a time-span of October 2001-October 2002.

At least a dozen ministers of the BNP-Jamayat coalition government were accused of their involvement in corruption as early as 2012. Interestingly all the accusations were raised from inside the party in power. A Parliamentary Standing Committee accused Nazmul Huda, former Communications Minister, for Corruption in import and distribution CNG auto-rickshaw was sold at up to Tk. 3.67 lac, up from the actual price at Tk. 1.67 lac. The parliamentary body accused the communications ministry of favouring Uttara Motors, allowing it to have monopoly on the business, as the company is the sole importer and distributor of CNG auto-rickshaws in Bangladesh (*The Daily Star*, 8<sup>th</sup> January 2004). In the meeting of the Parliamentary Standing Committee regarding Communications Ministry, a number of corruption charges were raised against Nazmul Huda. The charged, among others, included transferring a government land (one bigha) to one human rights organization, allegedly belonging to his wife, at a nominal value, and irregularities in leasing the toll collection of different bridges. Again he has been accused of misappropriating crores of money in several scam charges. A three-member Committee was formed to probe the allegations.

In a meeting of the Parliamentary Standing Committee relating to the Ministry of Forestry and Environment, a number of corruption charges were raised against Shahjahan Siraj, former Minister of Forestry and Environment. He has been alleged to have involved in the transfer and promotion of forest officers and other corruption of the ministry. Lutfuzzaman Babar, former State Minister for Home Affairs, changed the dress and monogram of the police, for which corruption charges were leveled against him.

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<sup>17</sup> Sheikh Hafizur Rahaman Karzon, 1993

Corruption Mirza Abbas, former minister of Housing, was uncovered as he was alleged to have committed irregularities regarding the distribution of the plots of 'Purbachol'. Amir Khashru Mahmud Chowdhury, former Commerce Minister, was accused of misappropriating huge amount of money by letting extensive import of sugar. Barrister Aminul Haque, former Tele Communications Minister, is reported to have involved in the corruption of permitting TNT mobile in private sector. Mir Md. Nasiruddin, former State Minister for Civil Aviation, abused his power when appointing cabin crews for Bangladesh Biman. Fazlur Rahaman Omar, former State Minister of Sports and Barrister Shahjahan Omar, former State minister for Law, Justice and Parliamentary Affairs, were also accused of having involved in scams. After wheat and oil scam, one parliament member was involved in sugar scam, for which government was deprived of 1 crore taka.<sup>18</sup>

### **3.2.2 Corruption of Government Officials**

Corrupting, bribery, and abuse of power are not related to any specific government of Bangladesh. BNP and Awami League governments cannot only be blamed for that, rather they have become inevitable part of the corrupt state mechanism and political culture. The amount of bribery and misappropriation of 24 ministries were 15 thousand crore taka during the last seven years. This was revealed in a report on February 4, 2002 submitted by the Comptroller and Auditor general of Bangladesh. During the said period police took bribery of an amount of 2 thousand 66 crore taka and officials of lower judiciary 11 hundred 35 crore taka. In one of their report in 2002, Transparency International identified police department of Bangladesh as the most corrupt among all the departments. Lower judiciary placed the second position, public health sector third, education sector fourth and electricity sector fifth.

In 2013, among the people involved in corruption, 64.1 percent were government officers and staffs. Absolute and discretionary powers, lack of accountability and weak administrative system are the causes of high level of corruption among the government officials. In 38.1 percent corruption cases, no action was taken, in 18.1 percent cases administrative action was taken, in 19.1 percent cases incident of

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<sup>18</sup> *The Daily Janakantha*, 21<sup>st</sup> November 2002

corruption was informed to the authority, in 16.3 percent cases it was not known whether any action was taken.

By scanning newspaper reports, Transparency International has found that almost all the government sectors are involved in corruption. Among these education, police, health and family welfare, and local government were the most corrupt sectors. In education sector most of the corruptions took place in high schools (33.55%), and college (15.31%). Abuse of power (59.61%) and bribery (30.95%) were highly used corrupt practices. In the police department, Thana police (77.26%) and traffic police (11.37%) were the most corrupt. Among the methods of corruption, bribery (31.76%), extortion (33.3%), and abuse of power (25.88%) were most prominent. In local government sector, Union Parishad (32.67%), Bureau of local Government Engineering (16.73%), DC office (5.58%), Municipality (9.56%), and UNO office (11.16%) were involved in corruption.<sup>19</sup>

During the last ten years, 10 state-owned financial organizations did huge financial irregularities and corruption. In terms of money the irregularities were equivalent to taka 17 thousand 5 hundred 88 crore. Allegations of misappropriation of crores of money were received from 15 government projects, among which 4 were related to housing and 6 to construction. Moreover, in some projects, crores of money was expended, though those projects were not approved in the ECCNEC. Two sub-committees of the Parliament were investigating the details of the project (*The Daily Janakantha*,<sup>1st</sup> November 2003). In a survey report of Transparency International, police department and Lower judiciary were identified as the most corrupt service organizations. 83 and 75 percent citizens became victim of corruption when coming to get service from these departments. Land administration placed third position, where 72 percent citizens experienced corruption, when they came into contact with land officials. Subsequent positions were occupied by Public Health, Education, Electricity and Taxation Department. There 55, 39, 32 and 19 percent service seekers became victim of corruption respectively.

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<sup>19</sup> Sheikh Hafizur Rahaman Karzon, 1993

An audit report of the Comptroller and Auditor General uncovered the financial irregularities in the Army, Navy and Air Force during the last 29 years, which was equivalent to 1 hundred 82 crore and 88 lakh taka. This report was presented in the fourth session of Parliament. In another case, crores of money was misappropriated by some officials of the Bureau of Public Health Engineering. The officials submitted the bill without installing any tube-well several times. They are said to have misappropriated more than 13 crore taka through a fake allotment of 3 thousand 1 hundred deep tube-wells.<sup>20</sup>

In one of its attempts, the Bureau of Anti-Corruption failed to collect the account of the assets of 60 Customs and Police officers. Among them some have assets of one hundred crore taka. The list ranges from the Secretary of the Taxation Board to Customs Inspectors and from Additional Inspector General to the Inspectors of Police. A case was filed against 7 high ups of the Bangladesh Shipping corporation for misappropriating 6 crore taka. Among others the list included Managing Director and Executive Director.

Officials of the Criminal Investigating Department (CID) of Chittagong are extracting 10 lakh taka from smugglers and terrorists in every month. In every year the amount is 1 crore 20 lakh.

An organized group of officials of BRTA, Pabna, are involved in huge corruption. They are alleged to have misappropriated 10 crore taka and deprived government of tax of an amount of another 10 crore taka. These corruption and manipulation have revealed by an investigating Committee of Communications Ministry. A vicious circle has misappropriated huge amount of wheat equivalent to 7 crore taka in the name of flood rehabilitation project. A case was filed against former Chairman of BIWTC in Khulna for misappropriating one crore taka. Every city Mayor was prisoner except Sadeq Hossain Khoka (Dhaka) during the caretaker Government.

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<sup>20</sup> *The Daily Dinkal*, 3<sup>rd</sup> April 2002

### **3.2.3 Corruption of Judges**

15 judges were punished for their proved involvement in corruption. Out of them 4 judges were give forced retirement, 4 were recommended to be sacked. Permission of the High Court Division was sought to file departmental cases against 7 judges. Among the judges 2 held posts equivalent to District and Sessions Judge, 4 were Additional district and Sessions Judges, 7were Joint District Judges and 2 were Senior Assistant Judges. The Bureau of Anti-Corruption and Intelligence Branch had received allegations against 8 judges about their involvement in taking bribery and corruption. All of them are owners of crores of money. They have industries, factories, luxurious abode and a number of flats in their name or names of their family members.

### **3.2.4 Corruption of Doctors**

Bribery, corruption and abuse of power have become inevitable part of all types of institutions of Bangladesh; health sector is not an exception to this. Patients of different government hospitals do not get medicine, which they are supposed to get. Rather some officials of the hospitals sold the medicine at a lower price to the surrounding medicine shops. Through this process lac taka's medicine of Dhaka Medical college Hospital are trafficked and sold (Sheikh Hafizur Rahman Karzon, 1993).

In 2013, health sector, among others, was identified as one of the most corrupt sectors. Health Complex (61.9%), Medical College Hospital (17.06%), Office of Family Planning (5.95%), Office of Civil Surgeon (1.98%), specialized-hospital (1.59%), private clinic doctor (4.37%) were the sub-sectors to be involved in corruption. Among different types of corruption in health sector, the most prevalent were misappropriation (43.7%), negligence of duty (31.1%), abuse of power (11.1%), bribery (8.7%), and cheating (2.4%). In this sector, the first class officers were mostly involved in corruption, which constituted 62.4 percent (Sheikh Hafizur, 1993).<sup>21</sup>

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<sup>21</sup> *The Daily Bhorer Kagoj*, 12<sup>th</sup> October 2002

Doctors are said to have involved in money-making malpractices, such as prolonging treatment, issuing false medical certificates, helping in illegal abortion, giving simulated expert opinion, and referring patients to diagnostic centers, from where they get regular commission. Some medical officers prepare annual budget of government hospitals, showing cost, many times more than the actual one, of various medicines and other medical instruments, which account for 100 crore taka loss of the national treasury.

### **3.2.5 Corruption of Engineers**

Engineers have lot of opportunities to do corrupt practices, which they are alleged to do by underhand dealing with contractors, letting perfunctory construction of infrastructure, including road, building, bridge, culvert etc. The transaction of public procurement contracts creates ample opportunities of corruption for the engineers. Public procurement contracts are supposed to go to the lowest bidder, but in many of the cases they do not, as appropriate authority is bribed. “Even an award in favor of the lowest bidder may involve corruption, if the firm has paid the highest bribe to bring this about. The scope for exchange of money remains because normally there are ways in which the lowest bidder may be eliminated on technical (e.g. specifications, quality) or procedural (e.g. the ways the documents have been drawn up) grounds. In this latter case, the tender committee member’s gain the cost of the bidding firm, not the state, at least in the short runs. In the long run, the state is the likely loser because the contracting firm may try to recover the bribe to the tender committee by again bribing the supervisors to take a sleepy attitude toward the quality of work done, services rendered, or materials supplied”.<sup>22</sup>

Abuse of tender of the road development projects of LGED has become usual incident. The cadres of government party are forcibly taking the tender before opening the tender box. They get construction works by underhand dealing with the authority, namely, engineers. For cadres, it is a profitable business, as they make huge amount of money out of the construction works, but they are not at all committed to their work (Sheikh Hafizur Rahman Karzon, 1993). An investigating Committee has

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<sup>22</sup> *The Daily Bhorer Kagoj*, 15<sup>th</sup> March 2004

revealed financial irregularities of 8 crore taka by three officials of Chittagong WASA, including Chief Engineer, who were later on suspended. In a project 1 thousand 2 hundred 25 metric ton wheat was allotted, of which 9 hundred 10 metric ton was sold out in black market by the engineers of the Water Development Board.

### **3.2.6 Stock Exchange Manipulation, Loan Defaulter and Criminalization of Election Process**

Stock market was manipulated in 1996, first ever in the history of Bangladesh, some notorious share market manipulators took away the savings of 3 lakh small investors, mostly belonging to middle and lower-middle class. The white collar criminals, linked through a web of national and international network, behind this share market manipulation are yet to bring before a court of law.

As a class loan defaulters are vary influential in Bangladesh, who took money from banks in the name of fictitious projects without any intention to pay back. According to Bangladesh Bank statement, on December 31, 2001 loan defaulters owe an amount of 23 thousand 299 hundred 44 lakh taka, which increased 1.50 thousand crore taka within 9 months. The total amount of defaulted loan stood approximately 25 thousand crore taka at the end of September, 2002 (*The Bhorer Kagoj*, 28<sup>th</sup> December 2002). The loan defaulters are active members of political parties, and they have considerable hold on the big political parties, both government and opposition, which was reflected in the government decision of remitting 2 thousand 4 hundred crore taka of the loan defaulters in 2002 and no protest of the opposition political parties.<sup>23</sup>

Election process, as a necessary pre-condition of democracy, need to be free and fair. The cost of election should be within the limits of the election rules and also in harmony with the earning of candidates, otherwise it will create tremendous pressure on the politicians, paving the way for criminalization of politics, which already contaminated our whole political environment. Two big political parties usually give nominations to businessman, bureaucrats, and loan defaulters, who have huge money to win the election. In the fifth parliamentary election, 52 businessman and

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<sup>23</sup> Theobald, Jerosi. 1990. Political Crimes. London: Oxford University Press.

bureaucrats were elected, of whom 6 became ministers. In the seventh parliamentary election, the number of elected bureaucrats and businessman increased to 84, among who 4 became ministers. They got 5 much more importance than dedicated politicians in both ruling and opposition parties.

### **3.3 Criminalization of Politics and Economics**

In a subtle process of corrupt practices, white collar crime has embedded into the political and network of Bangladesh. In the last 30 years (1971 – 2002), Bangladesh got 1 lac 80 thousand crore taka as foreign loan, of which 1 lakh 35 thousand crore taka was misused and misappropriated by the native and foreign elites, including bureaucrats, politicians and contractors. As a result, the economy of Bangladesh has been criminalized, for the perpetuation of which politics has also been criminalized. Exportation of public office for private gain, therefore, not only pertains to the definition of corruption, it also paves the smooth commission of white collar crimes in Bangladesh, of which politicians, bureaucrats and businessman are concomitants, and the people are the worst sufferer.

#### **3.3.1 Educational Institutions**

Yet another field where white collar criminals operate with immunity are the privately run educational institutions in this country. The governing bodies of these institutions manage to secure large sums by way of government grants of financial aid by submitting fictitious and fake details about their institutions. The teachers and other staff working in these institutions receive a meagre salary far less than what they actually sign for, thus allowing a big margin for the management to grab huge amount in this illegal manner. The victimized teachers can hardly afford to complain about this exploitation to high ups because of the fear of being thrown out of job. They are, therefore, compelled to compromise with the situation. Although the Government has introduced the scheme of treasury-payments for teachers of private institutions, but the problem still persists in one form or the other. That apart, fake and bogus enrolment of students who are residing far away from the place of location of these institutions is yet another source of illegal earning for them. They charge huge

amounts by way of donations or capitation fees from such needy students to appear in different examinations on the basis of manipulated eligibility certificates or domicile certificates in return for huge sums. These dishonest and unscrupulous practices have damaged the standard of education in Bangladesh to such an extent that it is causing an irreparable loss to the younger generation.

More often than not, these privately managed educational institutions as also those imparting some professional education enjoy the patronage of some influential politicians and many of them are even owned by them. Many such institutions are virtually non-existent and are functioning as commercial shops, enabling the students to get degrees on payment of huge sums in beaten violation the government rules, regulations and norms. The magnitude of this white collar criminality has adversely affected the standard of education in most States, and, therefore, the problem needs to be tackled through stringent statutory measures.

### **3.3.2 Forms of White Collar Crime which Violates our Penal Laws**

There are lots of white collar crimes in our world. They are as follows:

1. **Bank Fraud:** To engage in an act or pattern of activity where the purpose is to defraud a bank of funds. According to Section 462B of the Penal Code, 1860 punishment may extend to 2 years or fine, or both.
2. **Blackmail:** A demand for money or other consideration under threat to do bodily harm or to injure property or to accuse of a crime and to expose secrets.
3. **Bribery:** When money, goods, services, information or anything else of value is offered with intent to influence the actions, opinions, or decisions of the taker. You may be charged with bribery whether you offer the bribe or accept it. Section 171E of the Penal Code, 1860 laid down the punishment of imprisonment may extend to 1 year or fine, or both.
4. **Cellular Phone Fraud:** The unauthorized use, tampering, or manipulation of a cellular phone or service. This can be accomplished by either use of a stolen phone, or where an actor signs up for service under false identification or where the actor clones a valid electronic serial number (ESN) by using an ESN reader and reprograms another cellular phone with a valid ESN number.

5. **Computer fraud:** Where computer hackers steal information sources contained on computers such as: bank information, credit cards, and proprietary information.
6. **Counterfeiting:** Occurs when someone copies or imitates an item without having been authorized to do so and passes the copy off for the genuine or original item. Counterfeiting is most often associated with money however can also be associated with designer clothing, handbags and watches. According to Section 232 of the Penal Code, 1860 shall be punished with transportation for life, or with imprisonment of 10 years and also be liable for fine.
7. **Credit Card Fraud:** The unauthorized use of a credit card to obtain goods of value.
8. **Currency Schemes:** The practice of speculating on the future value of currencies.
9. **Embezzlement:** When a person who has been entrusted with money or property appropriates it for his or her own use and benefit.
10. **Environmental Schemes:** The over billing and fraudulent practices exercised by corporations which purport to clean up the environment.
11. **Extortion:** Occurs when one person illegally obtains property from another by actual or threatened force, fear, or violence, or under cover of official right. According to Section 384 of the Penal Code, 1860 punishment may extend to 3 years or fine, or both.
12. **Forgery:** When a person passes a false or worthless instrument such as a check or counterfeit security with the intent to defraud or injure the recipient. According to Section 465 of the Penal Code, 1860 punishment may extend to 2 years or fine, or both.
13. **Health Care Fraud:** Where an unlicensed health care provider provides services under the guise of being licensed and obtains monetary benefit for the service.
14. **Insider Trading:** When a person uses inside, confidential, or advance information to trade in shares of publicly held corporations.
15. **Insurance Fraud:** To engage in an act or pattern of activity wherein one obtains proceeds from an insurance company through deception.

16. **Investment Schemes:** Where an unsuspecting victim is contacted by the actor who promises to provide a large return on a small investment.
17. **Kickback:** Occurs when a person who sells an item pays back a portion of the purchase price to the buyer.
18. **Larceny/Theft:** When a person wrongfully takes another person's money or property with the intent to appropriate, convert or steal it.
19. **Money Laundering:** The investment or transfer of money from racketeering, drug transactions or other embezzlement schemes so that it appears that its original source either cannot be traced or is legitimate.
20. **Racketeering:** The operation of an illegal business for personal profit.
21. **Securities Fraud:** The act of artificially inflating the price of stocks by brokers so that buyers can purchase a stock on the rise.
22. **Tax Evasion:** When a person commits fraud in filing or paying taxes.
23. **Telemarketing Fraud:** Actors operate out of boiler rooms and place telephone calls to residences and corporations where the actor requests a donation to an alleged charitable organization or where the actor requests money up front or a credit card number up front, and does not use the donation for the stated purpose.
24. **Welfare Fraud:** To engage in an act or acts where the purpose is to obtain benefits (i.e. Public Assistance, Food Stamps, or Medicaid) from the State or Federal Government.<sup>24</sup>
25. **Weights and Measures:** The act of placing an item for sale at one price yet charges a higher price at the time of sale or short weighing an item when the label reflects a higher weight. According to Section 265 of the Penal Code, 1860 punishment may extend to 1 year or fine, or both.

But the crime of the upper class is mostly relieved for their power and they become free for jail only may punished as fine.

### 3.4 Alternative Remedial Measures

In a country like Bangladesh where large scale starvation, mass illiteracy and ignorance affect the life of the people, white collar crimes are bound to multiply in

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<sup>24</sup> *The Daily Bhorer Kagoj*, 15<sup>th</sup> March 2004

large proportion. Control of these crimes is a crucial problem for the criminal justice administration in this country. However, some of the remedial measures for combating white collar criminality may be stated as follows:-

1. Creating public awareness against these crimes through the media of press, platform and other audio-visual aids. Intensive legal literacy programmes may perhaps help in reducing the incidence of white collar criminality to a considerable extent.
2. Special tribunals should be constituted with power to award sentence of imprisonment up to ten years for white collar criminals.
3. Stringent regulatory laws and drastic punishment for white collar criminals may help in reducing these crimes. Even legislation with retrospective operation may be justified for this purpose.
4. A separate chapter on white collar crimes and socio-economic crime should be incorporated in the Bangladesh Penal Code by amending the Code so that white collar criminals who are convicted by the court do not escape punishment because of their high social status.
5. White collar offenders should be dealt with sternly by prescribing stiffer punishments keeping in view the gravity of injury caused to society because of these crimes.
6. Above all, public vigilance seems to be the cornerstone of anti-collar crime strategy. Unless white collar crimes become abhorrent to public mind, it will not be possible to contain this growing menace. In order to attain this objective, there is need for strengthening of morals particularly, in the higher strata and among the public services. I

Finally, it must be stated that a developing country like Bangladesh where population is fast escalating, economic offences are increasing by leaps and bound besides the traditional crimes. These are mostly associated with middle and upper class of society and have added new chapter to criminal jurisprudence. To a great extent, they are an outcome of industrial and commercial developments and progress of science and new technology.

# Chapter 4

## Causes and Effective in Bangladesh

### 4.1 Causes of Political Crimes

Political crimes is not a recent phenomenon in Bangladesh rather it is rooted for very long period of time. However, this chapter discusses on the causes of political crimes in context of Bangladesh. The East India Company, which effectively seized power in Bengal in 1757, perpetuated a highly corrupt system, paying its employees subsistence wages, thereby compelling them to resort to private business and extortion<sup>25</sup>. Robert Clive described the employees of the company as "a set of men whose sense of honor and duty to their employers had been estranged by the larger pursuit of their own immediate advantages."

The Basic Democracy Program, introduced during the 1960s to strengthen local government, provides a more recent example of the evolution of crimes in Bangladesh. An integral feature of this program was the use of food aid to finance rural development through the introduction of public works programs. "Wheat" became the new language of development during this period and in the process entrenched a culture of institutionalized crimes that fundamentally marred the sphere of local government and rural development (TIB, 2013).

Since independence, Bangladesh's leaders have often condemned the high incidence of crimes, but even since the return of democracy during the 1990s, neither government has been able to take effective action to address the systemic issues, which allow crimes to flourish. The business community has put up with it and, many would argue, benefited from it. It has unfortunately been the taxpayers and ordinary citizens, especially the poor, who have largely had to pay for it.

According to surveys conducted by TI, Business International, Political Risk Services and the World Economic Forum, Bangladesh ranks among the most corrupt nations in

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<sup>25</sup> Majumder, 2003; TIB, 2013

the world. The World Bank estimates that 2-3% of GDP growth is lost to crimes each year. Per capita income could double if the government restrained crimes (TIB, 2015).

Table 1. Bangladesh's Score Compared to Other Low Scoring Countries 2014-2015

SI	Country	CPI Score		Rank ( from below)	
		2014	2015	2014	2015
1	Bangladesh	2.0	2.0	0	7
2	Cambodia	2.1	2.0	4	7
3	Central African Republic	2.4	2.0	7	7
4	Papua New Guinea	2.4	2.0	7	7
5	Turkmenistan	2.2	2.0	5	7
6	Venezuela	2.3	2.0	6	7
7	Congo Democratic public	2.2	1.9	5	6
8	Equatorial Guinea	2.1	1.9	4	6
9	Laos	2.6	1.9	9	6
10	Chad	2.0	1.8	3	5
11	Uzbekistan	2.1	1.7	4	4

**Source : TIB, 2015.**

However, the following causes can be calculated as responsible for political crimes in Bangladesh.

(i) Historical Causes

(i) Discrimination and exploitation by the then Pakistan government to the then East Pakistan;

(II) Effects of war and upheavals of the struggle for independence

(ii) Over population

(iii) Illiteracy:

(v) Weak public opinion

## **(2) Economic Causes**

- (i) Poverty.
- (ii) Unnecessary programs of economic development.
- (iii) Rising expectation and uneven distribution of wealth.
- IV) Excess expenditure by politicians during election.
- V) Financial donation to political parties by the politicians.
- VI) Election nomination business.
- VII) Fraud to the mass people in name of development.
- VIII) Musclematronizing.

## **(3) Political Causes**

- (i) Absence of proper political leadership.

## **(ii) Control over administration.**

- (i) Government unjust control over economic activity.
- (iii) Complex rules and regulations.
- (iv) Control over mass media.
- v) Absolute power.
- VI) Lack in democratic practice.
- VII) Lack of transference and accountability.
- VIII) Poor law order situation.

**However, there are some other reasons of political crimes in Bangladesh. These can be mentioned as below:**

- i) Poor socio-economic condition of people.
- ii) Poor enforcement of laws.
- iii) Insufficient punishment of criminals.
- iv) Greed for wealthy life.
- v) Habit of crimes .
- vi) Competition to acquire wealth.
- vii) Competition to enjoy benefits.
- viii) Discretionary power of public servants.
- ix) Omitting religious values in personal, family and social life.

- x) Degradation of moral values among the politicians.
- xi) Frustration.
- xii) Lack of opportunity for career advancement and promotion.
- xiii) Lack of transparency in public offices.
- xiv) Absence of commitment to norms and values.

#### **4.2 Effects of Political Crimes in Bangladesh**

The government responds to the development obstacles by increasing government spending on recovery programs. Minimal tax revenues, however, cannot completely fund these projects, which typically fail due to poor management, and the government runs a deficit. Tax evasion and crimes of government officials reduce tax revenues, and government projects fail as bureaucrats become wealthy. The reduction of funds increases the government debt.

A banking system plagued by default, and bribery and theft in utilities such as power, ports and telecommunications, human development services are also subject to poor governance.

To illustrate the crimes function, this is an equation for fiscal deficit ( $D = G - Y_t$ ) with government crimes :

$$D = G - [Y_t - Cr].$$

Crimes (Cr) reduces tax revenues ( $Y_t$ ), and the subtotal is the amount of useful funds. The deficit (D) is the amount of funds subtracted from government spending (G). This equation is a mathematical demonstration of how crimes affects the economy. The effects of crimes on aggregate expenditures are observable from the equation, as is the relation between Bangladesh's rate of growth and its capacity if crimes did not exist. To continue, government deficit crowds-out investment spending because it utilizes most of the available credit. Investment spending is a very weak variable of Bangladesh's economy. If businesses cannot obtain credit in order to expand, then investment spending remains low, as do wages and employment. Bangladesh's rate of unemployment in 1996 was 35.2%. This high rate reduces wages because of the

principle of supply and demand in the labour market. Then, the cost-push theory of inflation dictates that companies maintain low prices on merchandise because they do not need to finance high wages. The Bank of Bangladesh takes advantage of this low-inflation opportunity to lower the discount rate, which increases the money supply and the amount of credit available to businesses for investment spending. According to the monetary theory of inflation, increasing the money supply also increases the rate of inflation. These two contradictory inflation trends in Bangladesh created a 5.8% rate of inflation based on 2000 consumer prices. This inflation rate might be lower and more stable if the BOB did not need to accommodate profuse government spending (Zakiuddin, 2002).

Another method to encourage investment spending is to attract foreign investment and trade. The Bank of Bangladesh occasionally devalued the Taka, maintaining an exchange rate that is semi-flexible in relation to the exchange and inflation rates of Bangladesh's trading partners. As of April 2013, the exchange rate was 63DT to the USD. Devaluation improves the balance of trade by encouraging other countries to purchase Bangladeshi exports. Bangladesh also attempts to reduce foreign competition and to generate more revenue for its generous government spending through high tariffs. Almost 60% of its revenue derives from import taxes, tariffs, and duties (Zakiuddin, 2002).

However, Bangladesh is obligated to follow guidelines of the WTO regarding its trading policies, and therefore is currently in the process of reducing these tariffs. Foreign investment spending, however, has not improved adequately. The crowding-out effect, for one reason, occasionally prevents investment until the next increase in the money supply. Crimes especially deters foreign investors, who are concerned about profit margins and rapid development. In essence, Bangladesh must stop crimes in order to achieve desired level of development. However, the effects of political crimes in context of Bangladesh can be arranged as the following orders.

1. Political crimes has been breaking down the progress of development in Bangladesh.

2. It makes the public policies and decisions destructive to the nation.
2. It increases poverty and injustice
3. It prevents development and rule of law
4. It Undermines democracy and good governance
  6. It distorts market, stifles economic growth, discourages honest living, discourages national as well as foreign investment and leads to competitive bribery
7. It makes the paths of crimes, social frustration, social disorder and insecurity
  8. The poor people are severely affected by political crimes, which leads them to very much improper access to basic human necessities as diet, clothing, education, health care services, and threats to individual freedom and safety.
9. Political crimes is a key impediment to the achievement of PRSP and MDG.

From economic theory, one would expect crimes to reduce economic growth by lowering incentives to invest (for both domestic and foreign entrepreneurs). "In cases where entrepreneurs are asked for bribes before enterprise can be started, or corrupt officials later request shares in the proceeds of their investments, crimes acts as a tax, though one of a particularly pernicious nature, given the need for secrecy and the uncertainty as to whether bribe takers will live up to their part of the bargain. Crimes could also be expected to reduce growth by lowering the quality of public infrastructure and services, decreasing tax revenue, causing talented people to engage in rent seeking rather than productive activities, and distorting the composition of government expenditure (discussed below). At the same time, there are sonic theoretical counterarguments. For example, it has been suggested that government employees who are allowed to exact bribes might work harder and that crimes might help entrepreneurs get around bureaucratic impediments.

One specific channel through which crimes may harm economic performance is by distorting the, composition of government expend true. Corrupt politicians may be expected to spend more public resources on those items on which it is easier to exact large bribes and keep them secret — for example, items produced in markets where the degree of competition is low and items whose value is difficult to monitor.

Corrupt politicians might therefore be more inclined to spend on fighter aircraft and large-scale 'investment projects than on textbooks and teachers' salaries, even though the latter may- promote economic growth to a greater extent than the former.

Empirical evidence based on cross-country comparisons does indeed suggest that crimes has large, adverse effects on private investment and economic growth. Regression analysis shows that a country that improves its standing on the crimes index from, say, 6 to 8 (0 being the most corrupt, 10 the least) will experience a 4 percentage point increase in its investment rate and a 0.5 percentage point increase in its annual per capita GDI" growth rate (Mauro, 1996). These large effects suggest that polices to curb crimes could have significant payoffs. The association between crimes and growth is by lowering private investment, which accounts for at least one-third of crimes 's overall negative effects. At the same time, the remaining two-thirds of the over all negative effects of crimes one economic growth must be felt through other channels, including those mentioned above. While it is difficult to disentangle those other channels, there is some evidence that: one of them the distortion of government expenditure — plays an insignificant role. From the above discussion we may come to a conclusion that sustainable development largely depends on strong political will and scale of long term vision for curving crimes and enforcement of existing laws of the land.<sup>26</sup>

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<sup>26</sup> Hasanuzzaman, Al Masud. 1998. Role of Opposition in Bangladesh Politics. Dhaka: UPL.

# Chapter 5

## Conclusions

### 5.1 Recommendations

This study presents the following recommendations to reduce political crimes in Bangladesh.

1. Proper orientation in respect of the practice of politics must be developed among the politicians.
2. Actual practice of democracy must be developed among the politicians.
3. A minimum level of education should be compulsory for the politicians.
4. Independent efficient Anti-crimes Institution must be developed to reduce political crimes .
5. There must be developed the independence of judiciary and has to ensure the rule of law.
6. Independent and efficient Election Commission must be developed to reduce political crimes . General election must be free, fare and unbiased and must be held in a certain period of time.
7. Inclusion of businessmen, retired bureaucrats, retired military bureaucrats in politics must be restricted.
8. Arrangement must be taken to recruit honest government service holders.

### 5.2 Conclusion

Political crimes is like a disease, like cancer, which destroys the all of the possibilities of development. Since independence, Bangladesh's leaders have often condemned the high incidence of crimes , but even since the return of democracy during the 1990s, neither government has been able to take effective action to address the systemic issues, which allow crimes to flourish. The business community has put up with it and, many would argue, benefited from it. It has unfortunately been the taxpayers and ordinary citizens, especially the poor, who have largely had to pay for it. Almost all of the sectors are affected by political crimes in Bangladesh. The political conditions and infrastructure positions of political parties of Bangladesh help in increasing crimes .

Less meritorious people are actively involved in student politics and the quality of national politics has been deteriorating due to less participation of meritorious people in it. As a result, they have become corrupt in spite of leading the society. So crimes - free political parties are essentials for a fair administration. Crimes has increased in the society due to inappropriate and inadequate application of law. There is no effective step to protest crime. No activities are there to protest and remove crimes in Bangladesh. It is not easy to take action against corrupt government officials. So they are being encouraged towards greater crimes . One of the reasons for the increase of crimes in our country is that the newspapers and electronic media have failed to perform their duties accurately. Telecast of advertisements of different fake products, which are also put up in other media, helps spread crimes . Sometimes different obscene dramas and films are also shown in the media, which are also stimulated for increased crimes . On the other hand, media do not put up any program against crimes . Crimes has increased due to a kind of passive positive attitude of media towards crimes.<sup>27</sup> There is no doubt that crimes is an immense problem. We all should try to control it. To control this spreading vice we may adopt some measures. Responsibility alone does not lie with the government for controlling crimes . Everyone should be conscious about its ill effects. Everyone should take oath that he or she would remain free from crimes . All the political leaders and workers should promise to lead a crimes -free life. Because, self-correction is the first step for prevention of crimes . Prevention of crimes should be included in the manifestoes of the political parties and this motto should form part of the culture in regular activities of all political parties. It should be treated as a social disease. All the parties should try to increase awareness about the need for prevention of crimes by them and among them. Honest and sincere persons should be given the opportunity for providing leadership. The examples of morality, social service, knowledge and wisdom of crimes -free men and women should be included in the curricula in all phases of education. Crimes is unfair and it is harmful to the society — this learning should be implanted in the mind of students. In this regard, religious education should be given priority. Crimes -free administration is vital for eradication of crimes . If the administration is not free from this vice, it is not possible to eliminate it from the society. A good administration

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<sup>27</sup> Hassan, Akiuddin. 2002. "While Crimes Breaks-down All." [www.copol.org.bang/html](http://www.copol.org.bang/html).

depends on the honesty and sincerity of the employees. So honest and sincere employees should be appointed to ensure crimes -free government.<sup>28</sup>

Effective measures should be taken to prevent their moral erosion. At the same time arrangement should be made to take legal and administrative actions against injustices and crimes to raise a good administration. To prevent crimes we really need an efficient anti-crimes apparatus. It should be free from political influence and have opportunities to work independently. Officials in this apparatus should be appointed carefully. Otherwise, crimes will increase rather than decrease. Activities of recently formed Anti-Crimes Commission should be upgraded and made more effective. Everyone is disappointed with the limited activities of this body. There is a proverb: “Necessity knows no law.” If the government employees cannot lead a normal happy life with their income, they may then adopt unfair means. So, wages should be consistent with market prices of daily necessities. If there is no want, people will not try to take shelter of crimes . Suitable remuneration could be an effective measure for control of crimes . A social movement against crimes should be initiated with the help of all political, social and cultural organizations. Media also could help it by putting up programs against crimes . This initiative should come from both public and private sectors. Media could play a vital role in this regard. We have seen in the past and at present also that whenever media — particularly Television channels telecast a few series of programs on any anti-social actively, it can be discouraged and stopped. An independent law department is essential for the prevention of crimes. Though initiatives have been taken for this, there is no positive result yet. Good governance could be ensured as well as crimes will decrease if those relate to courts and lawyers could perform their duties independently. But they must be honest and sincere in performing their jobs. Indeed, we could proceed to build up a crime-free society by utilizing some serious research work on crimes by social researcher. For this we need a decision, an oath to the effect that each of us will never do any crimes and would not encourage or help others in doing it.

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<sup>28</sup> Jalal, Hussain, 1990. “Political Crimes .” [www.wcor.org/pol/cor](http://www.wcor.org/pol/cor). as viewed on 05.10.2008.

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