



**A Research Monograph**  
**on**  
**“Juvenile Justice System in Bangladesh: A Critical Overview”**

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## **Letter of Transmittal**

**Joydeep Chowdhury**

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Subject: **Submission of Thesis.**

Dear Sir,

This is my pleasure to present my thesis report titled **“Juvenile Justice System in Bangladesh: A Critical Overview”**.

I have tried my level best to prepare the thesis report addressing all the aspects related to the title. I believe that knowledge and experience I gathered during the project period will be helpful in my future professional life. I will be grateful to you at the acceptance of the report. Therefore, I firmly believe that, this report will be able to meet your approval. I would genuinely appreciate to make further corrections where it seems necessary by you. I will be available for defense on this report any time at your convenience.

Thanking you.

.....  
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## **Declaration**

I am **Jubayer Bhuiyan Juboraj**, ID: LLB2103024022, Batch : 24th, Semester : 9, Department of Law, Sonargaon University (SU) do here by declare that the thesis report on “**Juvenile Justice System in Bangladesh: A Critical Overview**” is prepared by me.

I further confirm that the report is original and no part or whole of the report has been submitted to, any university or institution for any degree or any other purpose.

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## **To Whom It May Concern**

This is to certify that, **Jubayer Bhuiyan Juboraj**, ID: LLB2103024022, Batch : 24th, Semester : 9, Department of Law, Sonargaon University (SU) do here by declare that the thesis on “**Juvenile Justice System in Bangladesh: A Critical Overview**” is prepared under my supervision.

He has done his job according to my supervision and guidance. He has tried his best to do this successfully. I think his study will help him in the future to build up his career.

I wish him every success in life.

.....  
**Joydeep Chowdhury**  
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## **ABSTRACT**

Delinquent behaviour does not start at birth. Most young people become delinquents because of Bangladesh's socio-legal environment, not because they choose to. With more kids engaging in illegal activities, juvenile delinquency has been a severe worry in recent years. However, male and female offenders are becoming more numerous every day and engaging in various crimes, including robbery, hijacking, carrying weapons and substances that are prohibited, killing, trafficking, smuggling, and fraudulent activities. They have suffered from various socioeconomic factors, including deprivation, lack of direction, excessive satellite television viewing, improper internet use, peer pressure, and others. Therefore, the current social structure is running children's childhood, resulting in the denial of their rights. For instance - living with the family, education, health, games, care, and defense. Children must be treated with special consideration, positive attention, and a child-friendly attitude for their protection and prevention. The current trends and important socio legal causes of juvenile delinquency in Bangladesh are examined in this thesis.

**Keywords: Juvenile Delinquency; Social-Legal Aspects, Causes and Challenges.**

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## **Abstract**

Delinquent behaviour does not start at birth. Most young people become delinquents because of Bangladesh's socio-legal environment, not because they choose to. With more kids engaging in illegal activities, juvenile delinquency has been a severe worry in recent years. However, male and female offenders are becoming more numerous every day and engaging in various crimes, including robbery, hijacking, carrying weapons and substances that are prohibited, killing, trafficking, smuggling, and fraudulent activities. They have suffered from various socioeconomic factors, including deprivation, lack of direction, excessive satellite television viewing, improper internet use, peer pressure, and others. Therefore, the current social structure is ruining children's childhood, resulting in the denial of their rights. For instance—living with the family, education, health, games, care, and defence. Children must be treated with special consideration, positive attention, and a child-friendly attitude for their protection and prevention. The current trends and important sociolegal causes of juvenile delinquency in Bangladesh are examined in this thesis.

**Keywords: Juvenile Delinquency; Social- Legal Aspects, Causes, and Challenges.**

# Chapter 1

## Introduction

### 1.1 Introduction

The most vulnerable group in society is young people. They have a strong response to any social issue. It is a problem that still exists to a noticeable extent in both our culture and around the globe. A child is innocent when they are born, and if they are raised with love and care, they will grow up to be exceptional people. Delinquency's definition and the social context of our history must be understood to see the issue from its true perspective. However, unwholesome environments, the neglect of basic requirements, unfavourable company, and other abusers and temptations would spoil the child and make him more likely to become a delinquent.

The issue of juvenile delinquency is becoming more widespread and complex, and crime prevention programs are either nonexistent or ill-prepared to address the current situation. Numerous developing nations have taken very little to no action to address these issues, and there are clearly insufficient international programs. The prevention of adolescent crime is a focus of operations in developed nations, but the total impact of these programs is rather meager because the mechanisms in place are frequently insufficient to solve the situation.

Juvenile delinquency, according to criminologists, includes any wrongs done in public by young people between the ages of 12 and 20. Sociologists have a more expansive view of the idea and think it encompasses a wide range of adolescent offenses, from minor infractions to serious crimes, that violate social and legal norms. Sociologists link the characteristics of teenage behavior with the theoretical underpinnings of delinquency in an effort to.

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<sup>1</sup> Monjur Kader & Md. Muajjem Hussain, *Criminology*, 1<sup>st</sup> ed. ( Dhaka: Eastern University Dept ofLaw, 2008), pp.121-22

The creation of young people's social environment is influenced by a variety of factors, including those from the home, family, neighbourhood, peers, and many more. Delinquency is predominantly a group phenomena, according to statistical data from numerous nations; between two-thirds and three-quarters of all juvenile offenses are committed by members of different groups. Even young people who commit crimes on their own are prone to belong to groups. The atmosphere that is generated when some organizations and subcultures resort to using violence to settle interpersonal disputes is a significant mediating element that contributes to delinquent or criminal behaviour. This could even be referred to as a subculture of violence, where using aggressively to solve problems is viewed as acceptable, even desired, and brave. The information at hand demonstrates the considerable gender correlations between crime and delinquency. According to police statistics, male young adults and juvenile offenders commit crimes at rates that are more than twice as high as those of young women, and their conviction rates are also six or seven times higher.

## **1.2 Objectives of the study**

The Objectives of the study are as follows :

1. To examine recent developments and analyse directions in Bangladesh's children's justice system and to gain a thorough grasp of the current status of children in legal conflict.
2. Conducting empirical research to understand the topic of delinquency, which is social in origin, nature, and consequences.
3. To identify the gaps in this area and look for solutions and approaches to change the context of juvenile delinquency.

## **1.3 Methodology of the study follow**

1. In order to accomplish the precise goals of the current study, a variety of research approaches have been used in a number of separate research projects. Several subjects and broad concerns pertaining to the particular goal of the study have been initially chosen and defined for systematic and thorough research through exploratory investigation. Following that, these issues and queries have been covered by using both primary and secondary data
2. This research uses secondary data to examine the overall characteristics of juvenile delinquency and the criminal system.
3. In terms of secondary data, a review of prior research, reports, and other publications has been conducted, and the data and conclusions presented therein have been reported and assessed.

#### **1.4 Limitations of the study**

- (i) A severe paucity of data on these concerns is the study's principal limitation.
- (ii) A number of crucial markers of adolescent delinquency do not currently have national population statistics accessible.
- (iii) I am unable to speak with the young prisoners face-to-face.
- (iv) The study's main issue was a lack of time. Ample time is needed for an analytical purpose. However, I did not have enough time to prepare such a thorough analysis.
- (v) I conducted this type of study for the first time. Therefore, one of the key aspects that made up the study's restriction was inexperience.

## Chapter 2

### Concept of Juvenile Delinquency

#### 2.1 Definitions of juvenile: Difference of ages

The laws of Bangladesh do not all have the same concept of a child. Children are defined differently under various legislation. The maximum age for a juvenile or child is listed below in accordance with several Bangladeshi statutes:

- a) For the purposes of administering juvenile justice, a "child" is defined as a person under the age of sixteen in section 2(f) of The Children Act of 1974.
- b) A "kid" is defined as a person under the age of fourteen in section 1(3) of the Bengal Vagrancy Act of 1943.
- c) A "child" is defined as a person who has not reached the age of 16 under section 2(m) of the Nari sishu Nirjaton Domon Ain 2002, as revised in 2003.
- d) A "kid" is defined as a person who is under 18 years old under section 2(f) of the jail code, 1864. A child means a person under the age of 16.

Children are defined as everyone under the age of 18 in the United Nations Convention on the Rights of the Child (CRC), unless maturity is acquired earlier in accordance with the child's applicable law. In November 1989, Bangladesh ratified the Convention on the Rights of the Child. There are several laws that define children in Bangladesh. Regarding the age of children, several laws disagree. Some defined a child as a person younger than 12, others said younger than 14, and still others said younger than 18. However, The Children Act of 1974 stipulated that a child was anyone under the age of sixteen. A person under the age of 16 is considered a child under the Act. and when applied to a kid who has been committed by a Court to the custody of a relative or another suitable person, or who has been transferred to a licensed institution or authorized home meaning that youngster during the entirety of his confinement, despite the possibility that he may have turned 16 during that time.

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2 Abu Noman Mohammad Atahar Ali and others, 'Towards a Proper Juvenile Justice System in Bangladesh from a Cultured One: An Analytical Overture on Focusing Human Rights Perspective', Mizanur Rahman, ed, *Human Rights: Sixty Years After UDHR* (Dhaka : Empowerment Through Law of the Common People & Palal Prokashon, 2008), pp. 245-46.

## 2.2 Meaning of Juvenile Delinquency

The Latin word delinquare, which meaning "to omit," is the source of the English word "delinquency." The Romans first used the term to describe someone who did not complete the task or responsibility that was given to them. In plainer terms, one may say that delinquency is a type of behavior, misbehavior, or a departure from the socially acceptable norms of conduct.

However, the term "juvenile delinquency" has been interpreted variably by criminologists. In general, the word refers to a wide range of inappropriate behaviors that children and adolescents engage in that society disapproves of and for which some form of reprimand, punishment, or corrective action is warranted in the interest of the community. Thus, the phrase has a very broad definition that encompasses children's antagonistic and rebellious behavior as well as their attitude of indifference toward society. Other behaviors that young people frequently engage in, such as begging, truancy, vagrancy, obscenity, loitering, theft, drinking, gambling, etc., are also included in the definition of juvenile delinquency.

It should be noted that juvenile delinquency is not only a juridical term, as it is sometimes taken to be, while coming up with a working definition. It could be seen as a certain pattern of behavior. Juvenile delinquency can be simply defined as antisocial tendencies in the young & youthful when this behavior pattern is of an aggressive kind and is noticeable to the general population. It means that a segment of the burgeoning generation will no longer be under the grip of family and society. An offender is classified as a juvenile or criminal based on his age at the time of conviction rather than the time the offense was committed. "It is a phenomenon which has engaged the attention of society in particular the law since the birth of civilization."

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<sup>3</sup> Mohammad Afsaruddin, *Juvenile Delinquency in Bangladesh*, 1<sup>st</sup> ed; (Dhaka: Dhaka University publication, 1993).

A child is to be considered formally to be a delinquent when his anti-social inclinations emerge so severe that they become the focus of state action, according to Burt. Regardless of the legal definition, a child may be considered delinquent if his antisocial behavior causes suffering to others or if his family finds it difficult to manage him.

In a broad sense, juvenile delinquency refers to "a variety of anti-social behavior of a child" and is defined somewhat differently by different societies. Despite this, there is a common characteristic that can be seen in all of these definitions, namely the child's current tendency toward socially unacceptable behavior.

Paul W. Tappan writes that euphemistic language like "heaving" instead of "trial" or "sentence" shouldn't hide the fact that the essence of the entire operation may differ slightly from that of a criminal court.

### **2.3 Causes of juvenile delinquency**

These days, juvenile delinquency is a worldwide phenomenon. despite intense rehabilitation practices and unique practices conducive to young minds' maladjustment. In extreme circumstances, this may be necessary to combat the issue of juvenile delinquency since young people are increasingly violent, abrasive, and disobedient to the law. As a result, there has been a significant increase in the incidence of juvenile delinquency. The following are the primary reasons for this exceptional rise in juvenile delinquency:

1. Due to the high cost of living in urban regions, even women must work outside occupations to support their families financially, leaving their kids alone at home without any parental supervision. In addition, the lure of modern conveniences tempts young people to use illegal measures to fulfill their desires. Juvenile delinquency in metropolitan areas has significantly increased as a result of all these causes acting together. The statement that "there is no crime but simply criminals in the current understanding of criminology" has been made with some justification nowadays. Therefore, it is hoped that by removing conditions that encourage crime, society will be protected against offenders.

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5 N.V.Paranjape, *Criminology and penology*, 12<sup>th</sup> ed. (Allahabad: Central Law Publication, 2007), p.486.  
6 *Ibid.*, p.487.

2. Another factor contributing to the rise in juvenile delinquency is the breakdown of the family structure and lax parental supervision of children. According to Mr. Butler, the British Home Secretary, broken households naturally result in a loss of parental supervision, a lack of security, and a lack of love and care for the children, all of which are risk factors for juvenile criminality. Another factor undermining family unity is the unprecedented rise in divorce lawsuits and marriage conflicts. The power of the modern guy over his family is eroding quickly. Negative psychological effects on children are also caused by unfair discrimination against other children or stepmotherly treatment. A child who feels abandoned is destined to wander, and this provides a fertile environment for juvenile criminality.
3. Therefore, the youngsters must be loved, protected, and guided at home and must be handled with extreme caution. Instead than treating individuals after they have done the crime, more focus should be placed on keeping them from engaging in criminal behavior. The parents and other senior members of the family must give their children enough opportunities to grow as people. This is made possible by receiving the right training, education, and child care.
4. Children and teenagers find it challenging to adapt to new ways of life because of how quickly societal norms are changing. They struggle with the issue of cultural conflict and lack the ability to distinguish between right and wrong. They might commit crimes as a result of this.
5. Biological variables like early physiological maturation or low IQ also contribute to juvenile delinquent behavior. Girls' average age at puberty has decreased by three to four years. Girls today reach puberty at ages 12 or 13, while they are still intellectually incapable of understanding the realities of life. As a result, individuals become easy targets for sex relationships for fleeting pleasure without recognizing the gravity of their actions. Therefore, it is preferred that parents explain to their kids, especially the girls, the potential repercussions of engaging in forbidden sex indulgences in order to provide them with a timely warning. It is important to take extra precautions to guarantee that girls are effectively protected from prostitution and child pornography.

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<sup>6</sup> *Ibid.*, pp. 488-89.

<sup>7</sup> *Ibid.*, p.9

6. When abandoned and destitute boys move to slums, they come into contact with antisocial characters who engage in prostitution, drug and alcohol trafficking, and bootlegging. As a result, they are breaking the law by lending into the world of criminality without realizing it.
7. Poverty is yet another factor that may contribute to juvenile delinquency. When parents fail to provide for their children's basic needs like food, clothing, and other essentials, their kids turn to crime in an effort to make money however they can. For minor financial advantage, sometimes even the parents participate in this.
8. In addition to the aforementioned causes, other exacerbating variables for juvenile criminality include illiteracy, child labor, filth, etc.

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8 *Ibid.*

9 *Ibid.*

10 *Ibid.*

11 *Ibid.*

12 *Ibid.*, p.91.

## **2.4 Juvenile delinquency in Bangladesh**

In Bangladesh, the number of juvenile offenders is rising. In the metropolis of Dhaka, the rate is frightening. According to a trustworthy police source, 40% of criminals that are apprehended are juveniles. They engage in theft, robbery, hijacking, and extortion, and they are in possession of a variety of lethal weapons, including firearms. They even participate in murder. Police detained 40 juvenile criminals who had committed robbery and extortion in the first two months of 2002. Along with adult perpetrators, they were detained. Organized criminal gangs frequently have juveniles in their ranks. Shihab, a student at Motijheel School, and Amabar Shamsi, another school kid in Dhaka City, were killed by young offenders. Juveniles are often implicated in hijacking and extortion. Amabar Shamsi, a class eight student, was killed after some of his classmates were abducted.

According to a highly placed police source, children are widely used in the drug trade.

Drug traffickers exploit children to transport and sell drugs.

## **2.5 Causes of juvenile delinquency in Bangladesh**

Juvenile delinquency in Bangladesh is a result of social change, poverty, migration, broken families, the environment, a lack of parental authority, and the influence of action movies. Due to familial conflict and rural poverty, many young children are moving from their villages to Dhaka and other metropolitan cities.

Violence, homelessness, and poverty. They are picked up by hooligans, pimps, shopkeepers, hotel owners, pickpocket gangs, and pickpockets. Elderly children, adults, and others in positions of power take advantage of street kids. The trafficking of minors both inside and beyond the nation is a severe issue. In addition, orphans, children of sex workers, and other social outcasts are regarded as particularly vulnerable. These children are routinely picked up by the police and taken to police stations, where they are then sent to places like jails, juvenile detention facilities, or homeless shelters, among other places. Below are some causes of juvenile delinquency:

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13 *Ibid.*

14 *The daily sangbad* (27 August 2002), p.8.

15 *Ibid.*

16 *Ibid.*

## **Social transition**

The issue of juvenile delinquency in Bangladesh results from the country's expanding industrialization and urbanization. Sociologists and criminologists view delinquency as the product of the transitional phase, the process by which the majority population changes from rural peasants to an industrial labor class. Bangladesh is still mostly an agricultural nation. The predicted rate of industrialization has not occurred. Bangladeshi society is going through a rapid period of social transformation as it transitions from an agricultural to an industrial society. Because of the ongoing transition and Bangladesh's pre-industrial status, the country has a hybrid society that is neither entirely traditional nor entirely contemporary. Examining the institutions of the economy, politics, and religion reveals a struggle between traditional and contemporary principles, neither of which rule the lives of the populace. As a result of this struggle, anomie and creates greater vulnerability to delinquent behaviour .

## **Poverty**

This nation's population is largely extremely poor. In terms of the actual measures of poverty, they are below the poverty line. One-third of Bangladesh's 130 million residents, or 65 million out of that number, live in absolute poverty, making them among of the world's poorest people. Bangladesh has 900 inhabitants per km<sup>2</sup>, making it the most densely inhabited nation on earth. A total of 1,805 kilocalories a day are consumed by Bangladesh's 50% of the population, who also live in extreme poverty. Bangladesh has an extremely high profile of human destitution.

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17 Lutfur Rahman Shajahan and Saria Rahman Khan, 'Juvenile Justices', in Ruby Ghuznavi, Farah Ghuznavi and Saira Rahman Khan, eds, *Child Rights Reality and challenges* (Dhaka: British Council, 2001), p. 123.

18 Mohammad Afsaruddin, *Juvenile Delinquency in Bangaldseh*, 1<sup>st</sup> ed. (Dhaka: Dhaka University Publication, 1993), pp 1,37.

A significant portion of the population in Bangladesh lives below the threshold of subsistence due to extreme economic inequality. This economic pressure compels many young people to engage in criminal activity. Numerous sociological research demonstrate that an individual's vulnerability to arrest and jail increases with lower socioeconomic position. Villages and cities have never had very favorable living circumstances, either. Further degradation has been brought on by population increase that is exceeding resource development and the supply of infrastructure and services, as well as by a high rate of urbanization. The majority of the population is impoverished and cannot afford to buy or rent a minimally necessary home or basic amenities. As a result, there are slums and overcrowding in the cities, while the living conditions in rural areas are poor. A well-defined policy for the placement of factories and other economic activity has been lacking, which has made the problem of balanced expansion of our urban and rural areas even worse.

The primary cause of juvenile criminality is often poverty. Poor parents are unable to provide for their children's education and the development of a successful vocational or academic career; instead, they want them to work alongside them. Sometimes parents are unable to give their kids everything they need. basic requirements As a result, underprivileged kids begin to engage in activities to support themselves. The kids are unaware of what hobbies are acceptable and which can provide them with clothing and food. The criminal gangs use underprivileged children in their illegal activities by taking advantage of the bad economic situation. Numerous children are involved in small-time theft and pickpocketing. Poor kids have been used to transport phencydil and other illegal substances during border crossings.

Children from low-income families are frequently taken to detention facilities or prisons.

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19 Abul Barkat, 'Development- Freedom - Empowerment in the Context of Poverty and Deprivation in Bangladesh', in Executive Director Empowerment of Common People Through Law (ECLOP), ed, *Manual of Human Rights Summer School* (Dhaka: Empowerment of Common People Through Law, 2002), p.22.

20 *Ibid.*, p.23.

## **Problematic family**

The main factor contributing to the juveniles' deviance is problematic families. The main signs of a troubled family are the absence of either parent due to death or divorce, a lack of parental supervision, lax household rules, a strained relationship between the father and mother, and the presence of criminals among the family members. These issues prevent youngsters from reaching their full potential mentally, which causes abnormal behaviour in them. When their parents don't properly guide them, children between the ages of 8 and 14 turn to crime. Children should receive greater attention from their parents and teachers so that they do not have any opportunities to commit crimes. If their families and circumstances are unhealthy, children and adolescents are more likely to copy the harmful behaviors of others.

If a young person commits a crime for the first time and has good social skills, they are not detained in a development center but rather are retained in a family setting under the supervision of a probation officer. Although the legislation specifies a time period of 1-3 years, the youngster is released after one year.

If the family situation is not favorable, the young offender is kept in the development center. There, they hold the person for three months to a year.

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21 Sheikh Hafizur Rahman Karzon, *Theoretical and Applied Criminology*, 1<sup>st</sup> ed. (Dhaka: Palal Prokasoni & Empowerment through Law of the Common People, 2008), p.371.

22 *Ibid.*, p.372

23 *The Daily Star* (8 October 2005), p.12.

## **Migration**

Villagers are moving to cities due to unemployment and river-related land loss. They seek refuge in slum neighborhoods, on sidewalks, and in the streets, yet they continue to lack the necessities of life. Father and mother leave their children unattended and uncared for as they go to work. Politicians in this situation used kids (often referred to as tokai) in a dawn to dark strike, and the kids either picketed or ransacked automobiles or storefront windows. Additionally, the thieves use kids to commit minor theft and pickpocketing.

## **Surrounding environment and company**

Teenagers can occasionally develop criminal tendencies as a result of their surroundings and friends. Due to their young age, kids are unable to comprehend the long-term effects of their actions. They may become imprisoned in the slum and smuggling areas that surround them. Teenagers occasionally engage in drug use, visit brothels, and other criminal activity because of bad company.

## **Action movie**

Action films and satellite television have a harmful influence on young males' and girls' mindsets. Teenagers are inspired to visit brothels and engage in illegal activity by the violence and sex depicted in the movies.

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25 *Ibid.*, p.13.

<sup>1</sup> Monjur Kader & Md Muajjem Hussain, *Criminology*, 1<sup>st</sup> ed. (Dhaka: Eastern University Department of Law, 2008 ).

26 *Ibid*

## Chapter 3

### Administrative of juvenile justice system in Bangladesh

#### 3.1 Juvenile Justice System in Bangladesh

The main piece of legislation governing the handling of juvenile offenders is the Children Act of 1974. The law was created to update and combine the rules governing juvenile criminals' trials and punishment as well as the custody, protection, and treatment of children.

There are roughly 400 youngsters in the central penitentiary, according to an international rescue the children U.K. report that appeared in the daily Prothom Alo on January 4, 2003. Following receipt of this information, the High Court Division issued order no. 248/2003, suo moto, on April 9, 2003, allowing the juvenile to be redeemed.

The Supreme Court of Bangladesh's High Court Division has issued the following orders in relation to this situation:

1. The juvenile court must come before the administration of juvenile justice.
2. The government will ask the court to exonerate the kids from the charges.
3. The bail will be set up by the existence legal aid committee.
4. No child shall be engaged to or tested for engagement by any adult.
5. The kids must be sent home on remand from the jail.

The laws passed by the British colonial authorities are the source of Bangladesh's juvenile justice system. Separate trials for adults and children were necessary by the Bengal Code and Prisons Act. Reformation guidelines are provided by the Reformatory Schools Act of 1897. According to the Code of Criminal Procedure, 1898,

The juvenile courts are required to handle kid trials. The identical clause was included in the Bengal Children's Act of 1922. These laws dealt with the custody, defense, treatment, and protection of children.

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27 Shahdeen Malik, *The Children Act, 1974: A Critical Commentary*, (Dhaka: Save the Children UK, 2004).

The Children Act, 1974 and The Children Rules, 1976 were finally combined to create The Children Act, a legal framework designed to safeguard children's interests throughout all types of court proceedings.

Children who are at risk of social harm and those who are in dispute with the law are given protections under the Children Act of 1974. The Act mandates that before making any decisions, the Courts must take into account the child's age, personality, and other pertinent characteristics. Even when the offense was committed jointly, it precludes the joint trial of young offenders and adults and provides for separate juvenile tribunals. The Act also establishes procedures for the care and protection of abandoned and neglected children, particularly those whose parents or guardians are habitually negligent, abusive, or mistreat children by forcing them to beg or employ other cruel methods.

### **3.2 Definition of child and age of criminal responsibility**

The laws of Bangladesh do not all have the same concept of a child. Children are defined differently under various legislation. A person under the age of 18 is considered a minor, as defined by the Majority Act of 1875, the Child Marriage Restraint Act of 1939, the National Children Policy of 1994, the definition of a child up to 14 years, and the Labour Code of 2006, which classifies a worker under the age of 14 as a child worker.

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28 Borhan Uddin & Muhammad Mahbubur Rahman, *Protection of the Child in Conflict with the Law in Bangladesh*, 1<sup>st</sup> ed. (Dhaka: Save the Children UK, 2008), pp.27-28

However, the Children Act's definition of a child for the purposes of administering juvenile justice is any individual under the age of sixteen. A kid is someone under the age of 18 according to the United Nations Convention on the Rights of Children (CRC), to which Bangladesh is a party. The age of criminal responsibility in Bangladesh is over seven years old, according to section 82 of the penal law. However, according to the Children Act, a kid is anyone under the age of sixteen. When a kid is found guilty of an offense punishable by death, transportation, or imprisonment, Section 52 of the Act states that the court may, if it deems it necessary to deal with the child in this way, order order that he be committed to a licensed facility for detention for a period of time that must be between two and ten years, but in no event more than until the kid reaches the age of eighteen. The Children Act and the Penal Code are in conflict. The statutes described above do not make it obvious at what age a person becomes legally responsible. Clarity is needed regarding the minimum age of criminal culpability.

Government employees carry out their duties based on the assumption that in Bangladesh, age seven or older is the legal age of criminal responsibility. Any youngster over the age of seven who commits a chargeable offense is detained by the police. Street children, child prostitutes, and delinquent juveniles are not handled as minors by the authorities but rather as adult offenders.

### **3.3 Establishment of juvenile delinquency**

According to the Children Act of 1974, no child shall be accused of committing or be tried for a crime alongside an adult. This Act allows the government to set up one or more juvenile courts for any local region by publishing a notice in the official gazette. The High Court Division, the Court of Sessions, the Court of an Additional Sessions Judge and an Assistant Sessions Judge, the sub-Divisional Magistrate, or a Magistrate of the First Class<sup>28</sup> may also exercise the authority granted to a juvenile court. However, if another court is inferior to the court of sessions and the case is exclusively triable by the court of sessions, neither the juvenile court nor any other court may try the case.

There are currently three juvenile courts in our nation. In Tongi, Jessore, and Konabari KUK, respectively. At its first meeting, held on November 30, 2003, the NTF resolved that each district will have its own juvenile court with the ability to hold sessions. Finally, the Secretaries Committee for Administrative Development approved the establishment of 4 juvenile courts in 4 divisional cities. The aforementioned proposal was sent to the Cabinet Division's monitoring cell on August 20, 2006, in order to be presented to NICAR. In the interim, all 64 districts have selected special magistrates to hear minor cases.

### **3.4 Arrest, bail, detention and discharge**

The officer-in-Charge of the police station where the person is brought may release him on bail if sufficient security is provided, but they cannot do so if the individual is apprehended for a charge of a non-bailable offense and cannot be produced instantly before a court.

Where the person's release might jeopardize the goals of justice, place him in risk morally, or bring him into contact with a known criminal. If such a person is not freed in accordance with section 48, the officer-in-charge of the police station must arrange for his detention in either a remand home or a place of safety until he can appear before the court.

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<sup>30</sup> The Children Act, 1974, Section 6.

<sup>31</sup> *Ibid.*, Section 3.

<sup>32</sup> *Ibid.*, Section 4.

<sup>33</sup> *Ibid.*, Section 5(5).

When a child is remanded for a trial and is not freed on bond, the court must order that he be held in either a remand home or a secure location. [ The Children Act's Section 49]

The officer in charge must notify the probation officer of a child's arrest as soon as possible so that the probation officer can get started on the juvenile's case right away. No minor may be accused of or tried for any crime alongside an adult. When a juvenile is accused of any crime, the police officer must submit a separate charge sheet, and the appropriate magistrate must hold a separate trial. No juvenile shall receive a death, transportation, or jail sentence. If a child is found to have committed a serious enough offense that the court determines that no punishment that it is permitted to impose under the terms of this Act is adequate, or if the court determines that the child is too unruly or depraved to be committed to an approved institution and that no other legal means of handling the situation are suitable, the court may sentence the child to.

### **3.5 Alternative measures**

The Children Act outlines a number of alternatives to placing a young person in a development center, remand home, or other place of safety. An officer in charge of a police station has the initial authority to release a child on bail. The Act places additional obligations on the court, and it has A court may, if it sees fit, order a young offender to be released after proper reprimand or released on probation of good behavior and committed to the care of his parent, guardian, other adult relative, or other suitable person on the condition that the parent, guardian, relative, or person executes a bond, with the court's approval. The court may also order that the young offender be placed under the supervision of a probation officer. Without sureties, as the court may need, to be accountable for the young offender's good behavior for any term up to three years. If the court determines, after receiving a report from the probation officer or through other means, that the young offender has not behaved well during the course of his probation, it may, after conducting any necessary inquiries, order the young offender to be held in a licensed institution for the remainder of his probation.

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34 The Children Act, 1974, Section 48.

35 *Ibid.*, Section 50 and Section 51.

### **3.6 Trial procedure of juvenile delinquency**

A juvenile and adult cannot be tried together under the Children Act. When a juvenile is charged with a crime alongside an adult, the criminal court must trial the child separately. Although joint prosecution of those accused in the same incident is permitted by section 239 of the Criminal Procedure Code, section 6 of the Children Act shall be an exception in this regard. Any court that violates this clause by trying a minor alongside an adult is acting outside of its authority and in violation of the Children's Act. The High Court Division invalidated the lower court's decision in *Shiplu and Others v. State* on this basis. In the event that a was present when the offense was committed,

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36 The Children Act, 1974, Section 52.

37 49 DLR HCD, 53 as cited from '*Criminology*' by Monjur Kader & Muajjem Hussain (Dhaka: Eastern University Dept of Law, 2008), p.136.

If a person was a minor but was over 16 at the time of the trial, the adult-only portion of the trial is void. Despite the Children Act being silent on the subject, the high court division in *Bimal Das v. State* determined the following: The age mentioned in the section refers to the defendant's age at the time of his arrest or trial, not the age at which the offense was committed. When a kid is accused of committing a crime, the court must meet in a different location or on a different day than it does during its regular sessions or at times other than those when the Court's regular sessions are convened. This type of informal trial setting is intended to keep the young criminal away from a court environment that might have a detrimental impact on him. Criminal court is designated as an open court by the Criminal Procedure Code. But for the juvenile Court, this norm has been loosened. Juvenile trials must take place behind closed doors. The trial may only be attended by those immediately concerned in the matter and court officers. Those who are not parties to the case may also be asked to withdraw by the court.

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38 46 DLR HCD, 460 as cited from, *ibid*,p.137.

39 The Children Act, 1974, Section 7

40 The Code of Criminal Procedure, 1898, Section 352.

41 The Children Act, 1974, Section 9

### **3.7 Punishment of juvenile delinquent**

The Children Act states that no child shall be sentenced to death, transportation, or imprisonment unless the court determines that the crime committed was so serious, the child was so disruptive or depraved that he could not be admitted to a licensed institution, or both. In those cases, the child may receive a prison sentence. A young offender serving a prison sentence is not permitted to interact with the adult inmates.

When making a decision under the Children Act, the court must take into account the following factors.

- the child's personality and age; the child's living situation; the probation officer's reports; and any other factors that must be taken into account in the decision-making process.

The Children Act provides that unless the court finds that the crime committed was so serious, the child was so disruptive or depraved that he could not be accepted to a licensed institution, or both, no child shall be sentenced to death, transportation, or imprisonment. In some circumstances, the youngster might be sentenced to prison. It is prohibited for a minor offender serving a prison sentence to communicate with the older prisoners.

The court must consider the following considerations when reaching a decision under the Children Act: the child's personality and age; the child's living situation; the probation officer's reports; and any additional considerations that must be made.

### **3.8 Probation and rehabilitation**

Suppose there isn't a probation officer in the region. In that case, the juvenile court may appoint probation officers from among suitable individuals in the district and may do so for a specific juvenile. In the absence of a court, the Juvenile Court, or the Court of Sessions, will monitor probation officer activities. The Probation Officer's obligations include making or receiving regular visits from the child, ensuring that the bond's requirements are met, reporting to the Court on the child's behavior, offering the child advice and support, trying to find him suitable employment when necessary, and carrying out any other duties that may be prescribed.

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42 *Ibid.*, Section 57.

43 *Ibid.*, Section.15.

44 The Convention on the Rights of the Child, 1989, Article 40 (3) (a).

## Chapter 4

### Juvenile justice system of international standards

#### 4.1 international legal framework for juvenile justice

Since the UNCRC went into effect in 1990, the problem of juvenile justice has gained international attention. The juvenile delinquent justice system is a multifaceted, intricate procedure. Below is a concise summary of the current juvenile justice system in a worldwide system.

#### 4.2 minimum age of penal responsibility : international standards

The 1989 Convention on the Rights of the Child does not specify a minimum age, just that "below which minors shall be assumed not to have the capacity to breach the penal law." According to the Beijing Rules, "the commencement of that age shall not be fixed at too low an age level, taking into account the facts of emotional, mental, and intellectual maturity in those legal systems recognizing the notion of the age of criminal responsibility for juveniles." Because of history and culture, the minimum age of criminal culpability varies widely, but if it is too low, it can lead to serious consequences, according to the commentary on this provision. The concept of nation of duty would lose all sense if there was no lower age restriction at all. Therefore, it is clear that international standards do not specify a certain age but rather call for governments to consider children's physical and mental development as well as their need for special care when determining a minimum age. An international consensus on the lowest acceptable threshold that can be used as the minimum age of criminal responsibility is still being worked on. Due to history and culture, each country has a different minimum age for criminal culpability. The UN committee on the rights of the child, which keeps an eye on how well the CRC is being implemented in various countries, has advised that the age be determined by what is best for the children and has condemned nations where the age is 10 or lower.

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45 The Convention on the Rights of the Child, 1989, Article 40 (3) (a).

46 The Beijing Rules, 1985, Rule 4.1.

47 *Ibid.*

48 The Beijing Rules, 1985, Rule 10.3.

### **4.3 Arrest, bail and detention pending trial: international standards**

As soon as a youngster is apprehended, they are in legal trouble. Following the arrest, the issue of bail or imprisonment pending trial is raised. The following are examples of international rules regarding the arrest, bail, and custody of children pending trial that disagree with the law.

- With proper consideration for the circumstances of the case, contracts between law enforcement agencies and a juvenile offender must be administered in a way that respects the juvenile's legal standing, fosters his or her well-being, and prevents harm to the juvenile. Arrest and pre-trial custody must not be illegal or arbitrarily carried out, and they must only be employed as a last resort and for the least amount of time. 46 Each kid who has been arrested for a crime must get immediate, direct information about the charges brought against them. Additionally, upon being detained, the person's parents or legal guardians must be informed right away. If this is not practicable, the person must be notified as soon as possible after being detained.
- To encourage pre-trial diversion, laws, protocols, authorities, and institutions should be implemented. After that, wherever possible, alternatives to incarceration before trial shall be used, such as strict supervision, intensive care, placement with a family, in a school setting, or at home.
- No child must be subjected to torture or any other cruel, inhuman, or degrading treatment or punishment while in prison. Every child who is denied their freedom must be treated with compassion, respect for their intrinsic worth as people, and consideration for their developmental requirements. In particular, every child deprived of their liberty must be housed in a separate facility or in a separate area of a facility that also houses adults, unless doing so is deemed to be in the child's best interest. All children also have the right to maintain contact with their families through letters and visits, barring any unusual circumstances.

•Juveniles who are being held in custody before trial are entitled to all the protections and rights outlined in the Minimum Standards for the Treatment of Prisoners approved by the United Nations. The care, protection, and individual help that adolescents may need in light of their age, sex, and personalities while in custody includes social, educational, vocational, psychological, medical, and physical support. However, even children deprived of their liberty have the right to rapid access to legal counsel and other suitable help. She/he shall have the right to routinely communicate with his/her legal counsel, and such communication shall be kept private and secret.

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49 The Convention on the Rights of the Child, 1989, Article 37 (b). .

50 *Ibid* , Article 40 (2) (b) (ii)

51 The Beijing Rules, 1985, Rule 10.1

52 The Convention on the Rights of the Child, 1989, Article 40(3) (b).

53 The Beijing Rules, 1985, Rule 13.2.

#### 4.4 Trial procedure: International standards

According to international standards, a kid who violates the law cannot be tried alongside an adult or treated like an adult. As a result, the child's trial must be independent and unique. Due process of law is always required before a trial so that the accused is not unfairly biased. When the accused is a kid, this level of protection includes some additional criteria. The following are guidelines of the international standards on the trial of minors in dispute with the law:

- Every kid in legal trouble should be guaranteed the right to an immediate ruling from a competent, unbiased, and independent authority or judicial body.
- The legal process for children who have broken the law must take into account both their age and the need to encourage their rehabilitation. Every kid who is in trouble with the law should be given the chance to be heard, and the processes must be in the child's best interests and done in an environment of understanding that allows the child to participate and express themselves freely.
- The trial process should adhere to the requirements of the law. It should be guaranteed that the accused child will always be treated fairly and justly in court and will always be presumed innocent until and until proven guilty in accordance with the law. A youngster who is in trouble with the law should be given the opportunity to speak up and confront potential witnesses. She/he shall likewise be shielded from compelled confessions and post-facto criminal legislation.
- Every child who is in trouble with the law has the right to have their parents or other legal guardians present during the trial and actively involved. The court may additionally demand such attendance or involvement.<sup>69</sup> However, if there are grounds to believe that the child's best interests require their exclusion, the parent or guardian may be barred from participating. Additionally, every kid who is in trouble with the law should have the ability to apply for free legal assistance if such assistance is offered in the nation in question.

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54 The Convention on the Rights of the Child, 1989, Article 37 (a).

55 *Ibid* , Article 40 (1)

56 The Beijing Rules, 1985, Rule 13.4.

57 The Convention on the Rights of the Child, 1989, Article 37 (c).

58 *Ibid* , Article 37 (c)

59 The Beijing Rules, 1985, Rule 13.3.

60 *Ibid* , Rule 13.5

61 *Ibid*

62 The Convention on the Rights of the Child, 1989, Article 40 (2) (b) (iii).

• In terms of the trial, young people who have run afoul of the law are particularly vulnerable to stigma. International norms demand that every such youngster have their privacy completely maintained at all times throughout the process. The Beijing Rules place a strong emphasis on the need to protect the right to privacy and the secrecy of any procedures involving children. In accordance with the Beijing Rules, the juvenile's right to privacy must be upheld at all times to prevent injury from unwarranted publicity or the labeling process. In addition, it stipulates that "in general, no material that could identify a minor offender shall be disseminated." The following details are added to these guidelines: Juvenile offenders' records must be held in absolute confidence and must not be shared with outside parties. In addition, "Documents of juvenile offenders shall not be used in adult procedures in later cases involving the same offender," and "Access to such records shall be confined to persons immediately associated with the disposition of the matter at hand or other duly authorized persons."

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63 *Ibid* , Article 40 (2) (b) (ii)

64 *Ibid* , Article 14 (4)

65 The Convention on the Rights of the Child, 1989, Article 12 (2)

66 The Beijing Rules, 1985, Rule 14.2

67 The Convention on the Rights of the Child, 1989, Article 40 (2)(b)

68 The Beijing Rules, 1985, Rule 14.1

69 The Beijing Rules, 1985, Rule 7.1.

70 The Convention on the Rights of the Child, 1989, Article 40 (2) (a).

71 *Ibid* , Article 40 (2)(b) (ii).

## 4.5 Punishment: international standards

It is inappropriate to deal with youngsters who have broken the law in a strict punitive manner. To ensure that juvenile justice is administered properly in every nation, international standards demand that a variety of non-custodial sentence options be present in the law books and applied by the judiciary. The following information provides specifics on how children who break the law are punished according to international standards:

- The 1989 Convention on the Rights of the Child requires that a range of sentencing options be made available, including care, guidance and supervision orders, counseling, probation, foster care, education and vocational training programs, and other alternatives to institutional care, to ensure that juveniles are dealt with in a manner that is appropriate to their well-being and proportionate to both their circumstances and the offense. The Beijing Rules stipulated that the responsible authority would have access to a wide range of dispositional measures, giving them freedom to prevent institutionalization as much as possible. Orders for care, direction, and supervision, provision, community service, financial penalties, compensation, and restitution, as well as intermediate treatment and other treatment orders are some of these dispositional measures.
- According to international norms, restriction of liberty may be necessary in some situations as a "last resort" and for the shortest amount of time possible to deal with youngsters who have broken the law. According to the "last resort" sentencing standards, liberty deprivation cannot be ordered unless the judge believes that it would be impossible to fulfill the measure's goals— in this case, child rehabilitation—in a non-custodial environment. More specifically, as prohibited by the Constitution, no one shall be deprived of their personal liberties.

Beijing Rules, unless the kid is determined to have committed a significant act of violence against another person or to have persisted in committing another serious offense, and unless there is no alternative suitable remedy. Similar to this, the "shortest possible time" should normally be understood as the time frame in which that child's rehabilitation can be expected to be secured through correctional care.

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72 The Beijing Rules, 1985, Rule 15.2.

73 The Convention on the Rights of the Child, 1989, Article 40 (2) (b) (ii).

74 The Beijing Rules, 1985, Rule 15.1

75 The Convention on the Rights of the Child, 1989, Article 40 (2) (b) (vii).

76 The Beijing Rules, 1985, Rule 8.1.

77 *Ibid*, Rule 8.2.

78 The Beijing Rules, 1985, Rule 21.1

79 *Ibid* , Rule 21.2

International norms forbid the use of corporal punishment on minors who break the law, life in jail without the possibility of parole, and the death penalty.

- Prior to sentencing, social inquiry reports should be requested for all but minor offenses.
- Any sentence imposed should be appropriate given the circumstances and requirements of the offending child as well as the seriousness of the offense.

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80 Roy, Nikhil & Wong, Mabel, *Juvenile Justice. Modern Concepts of Working with children in Conflict with Law* (Dhaka: Save the Children UK, 2004), p.79.

81 The Convention on the Rights of the Child, 1989, Article 40 (4).

82 The Beijing Rules, 1985, Rule 18.1

83 The Beijing Rules, 1985, Rule 18.1.

84 The Convention on the Rights of the Child, 1989, Article 37 (b). The Beijing Rules, 1985, Rule 17.1 (b) and 19.1

85 Borhan Uddin & Muhammad Mahbubur Rahman, *Ibid.*, p.93

## Chapter 5

### Major drawbacks in juvenile justice system in Bangladesh

#### 5.1 General Discussion :

Bangladesh does not have a comprehensive juvenile justice system to handle youngsters who have legal issues. Although the government has made some attempts to bring juvenile justice issues to the forefront, much more needs to be done. One of the main issues is that individuals in charge of the judicial system, such as the police, judiciary, social welfare officers, and probation officers, lack knowledge of children's rights. This leads to several severe abuses of children's fundamental rights. For instance, children are frequently deprived of their liberty for what are referred to as "status offenses" like begging, vagrancy, smoking, dropping out of school, or alcohol use. The most fundamental rules of due process are frequently broken. Arrests, detentions, and sentences are frequently and sporadically arbitrary.

While being arrested and interrogated, people are subjected to physical assault, force, and torture. Child sexual abuse happens all too often. Children in custody who are under the legal age of majority are frequently detained with adult inmates, where they risk maltreatment and adverse social learning. When revising its laws and juvenile justice system, Bangladesh has not completely taken into account the CRC's principles and international agreements on juvenile justice. The UN Committee on the Convention on the Rights of the Child has stated that Bangladesh's juvenile justice system "insufficiently addresses" the rights of children. This includes every aspect of juvenile justice, including the rules, institutions, and organizations that deal with children who break the law. The Children Act of 1974 in Bangladesh. Bangladesh has not built a complete juvenile justice system that ensures children are segregated and treated differently from adults at all levels of the criminal processes, despite recent pressure for reform. Now that we have established the shortcomings in our current legislation, let's examine the flaws in the juvenile justice system.

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86 The Beijing Rules, 1985, Rule 17.1

87 Borhan Uddin & Muhammad Mahbubur Rahman, *Ibid.*, p.93

88 The Convention on the Rights of the Child, 1989, Article 37 (a).

89 *Ibid.*, Article 37 (a).

90 The Beijing Rules, 1985, Rule 17.3

91 *Ibid.*, Rule 17.1

## **5.2 Problem of determine the juvenile and impose criminal**

**responsibility** The laws of Bangladesh do not all have the same concept of a child. Children are defined differently under various legislation. There is no mention of a child's age in particular.

Therefore, it is impossible to identify the child. The age of criminal responsibility in Bangladesh is over seven years of age, as stated in section 82 of the penal code. nonetheless, children Act.

Specify a child as a person who is under the age of sixteen. Therefore, there is no single age at which someone becomes criminally responsible.

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92 Sheikh Hafizur Rahman Karzon, *Ibid.*, 1<sup>st</sup> ed. (Dahka:Palal Prokashoni& Empowerment though Law of the Common People, 2008).

93 Shahdeen Malik, *Ibid.*

### **5.3 Joint trial**

Children may only be tried in juvenile court, not in adult court, in accordance with the Children Act of 1974 and the Code of Criminal Procedure of 1898. Only those immediately involved in the case and court officers may be present during their trial, which will be conducted in secret. However, no court in Bangladesh appears to be adhering to these trial-related regulations, and it has been noted that children are frequently prosecuted with adults in regular criminal courts when they are co-accused with adults. In a number of cases, it has been decided that a kid and an adult should be tried together. As an illustration, take Shiplu and another versus state. Inadequate legal representation: The majority of young people who encounter the law and wind up behind bars come from relatively underprivileged backgrounds. They frequently lack the resources to hire attorneys to defend them. However, the fundamental tenet of the criminal justice system is that everyone has the right to self-defense in a court of law. In this aspect, Bangladesh's legal system is woefully deficient. Even though Bangladesh is home to several top-notch attorneys, they do not represent children's cases. Even the cheapest attorneys are unwilling to represent the kids since their families cannot afford the attorneys' fees. The preceding scenario makes it evident that our legal system, which does not adequately support juvenile offenders, is the main issue. Even though there is a fund for providing legal assistance, it is not being used correctly.

### **5.4 Adverse court environment**

The courtroom setting where a child's crime will be tried should be kid-friendly. There are special courts for children in the child development centers, which are more child-friendly than ordinary criminal courts. However, only a small number of instances are brought before the criminal courts in which the children Act of 1974's specific procedures were not followed, not even any child was given care. Therefore, either the criminal court environment should be changed, or the trial should take place in these special juvenile courts.

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94 Monjur Kader & Md Muajjem Hussain, *Ibid.*, p.134.

95 The Children Act, 1974, Section 6.

96 Shiplu vs State, 49(1997) DLR. HCD.p.53 as cited from '*Criminology*' by Monjur Kader & Md. Muajjem Hussain (Dhaka: Eastern University Dept of Law, 2008), p.136.

## **5.5 Lack of Facilities in Juvenile Correctional Centers**

There are now three juvenile correctional facilities with remand home amenities in Bangladesh. One of the two lads is Tongi. Jessore, and one in Dhaka. In the district of Gazipur's konabari, there is only one female correctional facility. However, these prisons are now used as child development centers. They are meant to be specialized organizations that look after kids who have legal issues. But guardian-referred cases have now filled them to capacity. Additionally, they lack facilities for criminal justice activity. The vocational training program's curriculum is out-of-date, the instructors are insufficiently qualified, and the administrators and staff are unprepared to deal with youngsters who require specialized care. The perilous scenario surrounding juvenile development centers was recently highlighted in a newspaper article. One 10-year-old boy was discovered dead in the juvenile detention facility with his throat cut, and another was thought to have perished in a fight between inmates. This type of major issue inside the correctional facilities should be addressed by the government, and it should be handled with strict judgments. In addition, there is a need to include counseling, contemporary skills for the prisons, and plans for training the guards and personnel of the prisons.

## **5.6 Breaking of the Chain of Juvenile Justice System**

After a minor is arrested, the first step in the juvenile justice process is to inform the probation officer of the information. However, due to their other commitments, police officials are never able to identify the child's family. Similar to this, it is not feasible for all probation officers to visit each police station every day to determine whether or not any juveniles have been arrested that day. The probation officials can visit the police stations at least once a week to learn about any children or juveniles, which is what can be done in this situation. In this case, the social welfare department needs to appoint more probation officers because there aren't enough of them. Due to a lack of information, probation officials are also unable to do their duties. In order to successfully enforce justice, this section of the Children's Act must be implemented.

## **5.7 Lacking of the Children Act, 1974**

The major goal of the Children Act of 1974 is to ensure that under no circumstances will children ever go to jail. The cornerstone of international juvenile justice standards, the notion of diversion, is not yet acknowledged by Bengali law and legal practice. A lot of the features of juvenile justice legislation, such as restorative justice, mediation, and stated preference for community-based rehabilitation, as well as community and NGO involvement, and clear protection between child offenders and children in need of protection, are also lacking. The Minor's Act does not have any special clauses that restrict the use of physical force or that address the interrogation of children for statements or confessions.

Children are not protected from abuse and intimidation during police questioning and interrogation, either by law or in practice. We ought to make an effort to include these clauses in the laws we now have. The police and judges typically view the Children Act as the only option available to rehabilitate or "correct" children, despite the fact that it mainly relies on institutionalization of children and denial of liberty.

## Chapter 6

### Recommendations and conclusion

Both government and non-government organizations have recently shown a strong commitment to enhancing the juvenile justice system. The momentum built up to this point needs to be transformed into long-lasting and organized changes to the nation's juvenile justice system. I'd like to now discuss some recommendations and suggestions for enhancing the juvenile justice system.

#### 6.1 Legal reforms

A proper and sufficient legal foundation is necessary for the juvenile justice system's objectives. The following legal reforms are required to provide proper justice.

- Children between the ages of sixteen and eighteen should be included in the scope of the Children Act of 1974 and the Children Rules of 1976.

To that purpose, it is imperative to revise the Children Act of 1974 to include all individuals under the age of 18 as "children."

- Contacts between law enforcement and a child offender should be handled in a way that respects the children's legal standing, fosters their welfare, and prevents harm to them. Therefore, it should be against the law for anyone to arrest a child while wearing handcuffs.

- Every child who is suspected of committing a crime should have the right to legal representation at the state's expense.

- Arresting a child on suspicion of a crime should be carefully regulated by law, leaving the law enforcement agencies with the barest amount of discretion.

- The statutory prohibition of child arrest under preventative law is necessary.

- Legislative action should be taken to rule out the possibility of a kid receiving adult punishment. Therefore, it is advised that even if a kid receives punishment, the severity of the penalty be limited to no more than one third of the severity of adult punishment.

- Any child detained in a KUK should not be sent to jail to serve the remainder of the detention or imprisonment that is due, and should be permitted to remain in the KUK in question even after turning 18 years old.

- Where detention is unavoidable, a stronger contract between a child and his family is expected in the child's best interest. As a result, in order to make the Children Rules' restrictive clauses governing family contracts compliant with international norms, they need be changed.

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99 N.V. Paranjape, *Criminology and penology*, 12<sup>th</sup> ed. (Allahabad: Central Law Publication, 2007).

## **6.2 The discretionary power of the police officers should be reduced and controlled**

According to several regulations, police have broad discretion to detain minors who need protection for reasons such as vagrancy, begging, prostitution, smoking, and dropping out of school. Police should not be allowed to misuse their discretion and hurt even one child, hence it is important to regulate this power.

## **6.3 sensitization and training is needed**

The probation officers, police officers, jail authorities of any correctional facilities, attorneys and judges who deal with juvenile delinquency, and all of them should work together. They should receive appropriate instruction and be made aware of relevant issues.

## **6.4 Co –operation among all the agencies who are working on juvenile justice is needed**

The Ministry of Women and Children Affairs, the Ministry of Law, Justice and Parliamentary Affairs, and the Ministry of School Welfare should collaborate in order to create the opportunity to further advocate for reform that will result in the establishment of a juvenile justice system in Bangladesh that is focused on children.

## **6.5 NGOs and social welfare departments can play vital role to give legal aids and others assistance**

There are homes providing shelter for children who require protection run by several NGOs. They ought to volunteer to offer refuge. By doing this, prison or correctional facilities can also be avoided. Additionally, they provide legal aid and focus on juvenile justice. A large proportion of youngsters do not receive justice because to a lack of funding or because of their financial situation. NGOs are able to provide legal assistance to children who are in need. The government also has some resources that can be applied to this.

The Social Welfare Department of our Government can play the most useful role. The majority of the children currently incarcerated can be released, and the number of children transported to any jail can be reduced, if the probation officers who work for this department effectively use their authority and carry out their responsibilities.

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100 Borhan Uddin & Muhammad Mahbubur Rahman, pp. 131-133.

101 Borhan Uddin & Muhammad Mahbubur Rahman, *Protection of Child in Conflict With the Law in Bangladesh*, 1<sup>st</sup> ed. (Dhaka: Save the Children UK, 2008).

## **6.6 The existed law are to be property followed and implemented**

The decision to make birth registration mandatory by our government is a wise one. Otherwise, figuring out the age was really challenging. The issue of figuring out a child's age can be resolved if this law is rigorously adhered to.

Additionally, there are situations when juveniles are implicated in crimes that also include adult offenders. Additionally, in order to protect them, juvenile crime victims and witnesses are susceptible to arrest and imprisonment. Children should receive a separate charge sheet about this matter. Instead of jails, shelter homes should be used to house the young victims and witnesses.

All children should be kept segregated in jail or a police station, according to the Children Act, which was passed in 1974. Numerous police stations or jails have been created since the passage of this Act, but not a single one of them has a distinct area for children. We can conclude from this instance that the existing laws can be implemented without the need for any additional legislation.

## **6.7 Alternative way from giving punishment should be followed**

We will endeavor to avoid punishing anyone or sending them to a jail or correctional facility even while we are discussing methods to reform prisons. A bench of the High J recently issued a directive stating that any child's (child's) opinion should be sought prior to taking custody of them while the trial is ongoing. The idea that a child's viewpoint should be considered is excellent, but there is also a drawback in that the court is subtly promoting placement in any type of custody or jail.

In this case, our advice is that juveniles who have committed crimes or been found guilty shouldn't be detained in a jail or correctional facility right away. Since they will come into contact with other offenders in jail or correctional facilities, it is important to respect the principle of "non-denial freedom" at first. They might draw motivation and stimulation from those repeat offenders. They may instead be subjected to other sorts of punishment, such as community service. Delinquents will be released here on bail or probation in accordance with section 48 of the Children Act, which states that a police officer may release them. After that, they will volunteer to clean the mosque, temple, etc. in his neighborhood on a daily or twice- weekly basis, plant some trees, work in an orphanage or an abandoned house, etc.

Therefore, a sense of shame will grow within them that they did something wrong, but at the same time, the penalty won't make it simple for them to reintegrate into society. It's crucial that these kids are given the opportunity to "fix" themselves and be properly disciplined before being reintegrated back into society.

Separating the children who require protection from the ones who are breaking the law is a good idea. When police officers apprehend children who require protection, such as vagrants, they oftentimes send them to detention facilities or shelter homes where they come into contact with other kids who are there for committing crimes.

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102 Sheikh Hafizur Rahman Karzon, *Ibid.*, 1<sup>st</sup> ed. (Dahka:Palal Prokashoni& Empowerment though Law of the Common People, 2008).

103 Abu Noman Mohammad Atahar Ali and others, *Ibid.*, pp. 251-52.

## 6.8 Conclusion

It becomes clear from the study that has gone before that Bangladesh has produced enough laws to protect and uphold the rights, justice, and dignity of children. It is regrettable that aims are frequently muddled or undermined by haphazard and ineffective implementation. We need to organize and thoroughly examine our laws and institutions pertaining to juvenile delinquency in order to ensure proper implementation. Legislation alone won't solve the problem, however; democratic political government policies must also exist for Bangladesh's juvenile delinquent justice system to thrive. The people tasked with running the justice system, particularly in the juvenile justice system, lack comprehension of the goals of juvenile justice jurisprudence.

Even judges of the lower judiciary did not consider the Children Act's goals, which were established to accomplish the goals of the juvenile justice system. On the other hand, our country's top court, the Supreme Court, is very concerned about preserving and advancing the goals of the juvenile justice system. In a number of court cases, the highest court ruled that the Children Act, 1974's provisions must be carefully observed while dealing with a minor offender. that all parties involved in the administration of justice, including the court, must treat a young criminal differently. While there are a few instances where some benches, If the Children Act of 1974's provisions were not taken into consideration, it would not have lessened the Act's core goals. The Children Act, 1974's provisions are discovered to be enthusiastically implemented by Bangladesh's top courts in order to assure the child's proper protection while in their care. Therefore, it would not be overstating the case to claim that the highest court's activism in achieving the goals of the Children Act of 1974 merits applicability.

In addition to laws and regulations, the judiciary, the legislature, and law enforcement agencies in Bangladesh need to alter their perspectives and methods in order to appropriately interpret and apply the laws governing juvenile problems. The government of the People's Republic of Bangladesh should give the interests of this society top priority because juveniles are an integral part of the human family and because Bangladesh'—shall be a democracy in which basic human rights and respect for the dignity and worth of the human person shall be guaranteed.

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104 *Ibid*, p. 254.

105 Anisur Rahman, 'Towards a Proper Juvenile Justice System in Bangladesh from a Cluttered one: An Analytical Overture on Focusing Human Rights Perspective', in Mizanur Rahman, ed, *Human Rights: Sixty years After UDHR* (Dhaka: Empowerment through Law of the Common People & Palal Prokasoni, 2008), p. 240.106 Abu Noman Mohammad Atahar Ali and others, *Ibid.*, pp. 254-55

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