



# **SONARGAON UNIVERSITY**

**Research Monograph  
On  
Critical Analysis of the Criminal Justice System on Speedy  
Trial: Bangladesh Perspective**

**A Thesis Submitted in Partial Fulfillment for the Degree of Master of Laws  
(LL.M.) Department of Law Sonargaon University**

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## LETTER OF TRANSMITTAL

Date: 25 June, 2026

To

**Mrs. Sharmin Jahan Runa**

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**Subject: Submission of Research Monograph**

Dear Madam,

It is a great pleasure to submit my Research Paper on Critical Analysis of the Criminal Justice System on Speedy Trial: Bangladesh Perspective. I have given best efforts to finish the research with relevant information that I have collected from various sources.

I have concentrated my efforts to achieve the objectives of the work and hope that my endeavor will serve the purpose. I shall be grateful and obliged if you kindly accept my thesis and evaluate it.

Sincerely yours,

.....

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## **STUDENT'S DECLARATION**

I hereby do solemnly declare that the work presented in dissertation has been carried out by me and has not been previously submitted to any other institution. The work I have presented does not breach any copyright. I further undertake to indemnify the University against any loss or damage arising from breach of the forgoing obligations.

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## **SUPERVISOR CERTIFICATE**

The dissertation titled “**Critical Analysis of the Criminal Justice System on Speedy Trial: Bangladesh Perspective**” prepared by **Md. Fozlay Rabbi**, ID: LLM2502033005, submitted to the Department of Law for the fulfillment of the requirements of Course Law 5209 (Supervised Dissertation) for LL.M. offered by the Department of Law, Sonargaon University, Dhaka, Bangladesh is approved for submission.

I wish him every success in life.

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**Mrs. Sharmin Jahan Runa**

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## **ABSTRACT**

The right to a speedy trial is a fundamental human right recognized by international law and guaranteed by the Constitution of Bangladesh. However, the criminal justice system in Bangladesh faces several challenges in ensuring this right. This paper analyzes the key challenges in the criminal justice system of Bangladesh related to the speedy trial of criminal cases. The paper identifies the backlog of cases, lack of resources and infrastructure, slow and inefficient investigations, and corruption and political interference as the primary challenges that impede the fair and efficient administration of justice. The paper also discusses potential solutions, including the need for reforms in the investigative process, improving resources and infrastructure, and addressing corruption and political interference. The findings of this paper can inform policy decisions to improve the criminal justice system in Bangladesh and uphold the right to a speedy trial for all. The research is anticipated to shed light on the issues that are causing the trial process in Bangladesh to drag out, such as the insufficient number of judges, a lack of contemporary tools, a lack of funding, and political interference. The research will also focus on how the length of the trial process affects the efficiency of the criminal justice system in Bangladesh, including how it affects the rights of the accused, the backlog of cases, and the public's trust in the legal system. The study will also make recommendations for potential ways to guarantee a speedy trial in Bangladesh's criminal justice system, such as increasing the number of judges, enhancing the use of technology, allocating more funding, and minimizing political interference.



## **Chapter 1**

### **Introduction**

Bangladesh's judicial system has long struggled with problems like delays, case backlogs, and high levels of corruption. The speed of trials is one of the important areas that need focus. The government has made efforts recently to increase the effectiveness of the legal system and shorten judgment times. There is still a long distance to go, though. The goal of this research proposal is to examine the obstacles to and opportunities for justice system reform in Bangladesh in order to guarantee swift trials. Every individual is assured their fundamental right to a speedy trial under Bangladeshi law. However, the reality of Bangladesh's criminal justice system indicates that this right is frequently transgressed. The criminal justice system is less effective as a result of the trial process's delay, which also violates the accuser's fundamental rights. The purpose of this thesis plan is to examine the problems with and potential fixes for Bangladesh's criminal justice system's speedy trials.

#### **1.1 Background:**

The right to a fair trial is guaranteed by the constitution, which forms the foundation of Bangladesh's criminal justice system's notion of a speedy trial. Every accused person in Bangladesh has the right to a speedy and public trial by an impartial judge, as stated in Article 35(3) of the constitution.<sup>1</sup> The criminal justice system in Bangladesh, however, actually faces a number of difficulties that frequently cause delays in the adjudication of cases. Trials move slowly for a variety of reasons, including case overload, poor infrastructure, a lack of resources, procedural difficulties, and corruption. Trials drag on for a number of reasons, such as case overload, inadequate facilities, a lack of funding, logistical challenges, and corruption. The concept of a speedy trial in Bangladesh's criminal justice system is based on the right to a fair trial, which is guaranteed by the constitution. According to Article 35(3) of the constitution, every accused person in Bangladesh has the right to a timely and open trial by a judge who is not biased. However, there are a number of issues that frequently result in delays in the adjudication

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<sup>1</sup> The Constitution of Bangladesh. Article 35(3)

of cases in Bangladesh's criminal justice system. However, there are a number of issues that frequently result in delays in the adjudication of cases in Bangladesh's criminal justice system. Trials drag on for a number of reasons, such as case overload, inadequate facilities, a lack of funding, logistical challenges, and corruption. Several legal provisions have been passed in Bangladesh to address these problems and guarantee the right to a speedy trial. The procedural rules for criminal trials are outlined in the Code of Criminal Procedure (CrPC), which also includes clauses regarding the prompt resolution of cases. To speed up the trial process, Section 19A of the CrPC, for instance, calls for the creation of Special Courts to handle particular offenses.<sup>2</sup> The Speedy Trial Tribunal Act of 2002 was also passed in order to set up special courts for the quick adjudication of cases involving particular types of criminal offenses, including terrorism, drug use, and corruption. In an effort to expedite the delivery of justice, these tribunals use a more efficient trial process and set strict case completion deadlines. To promote speedy trials, there have been recent moves to improve Bangladesh's criminal justice system. These include initiatives to lessen the case backlog, the creation of more specialized courts, and the introduction of digital technology to streamline case management. The right to a timely trial for everyone in Bangladesh's criminal justice system must be successfully guaranteed, nevertheless, and in order to do so, other reforms are required. In an effort to expedite the delivery of justice, these tribunals use a more efficient trial process and set strict case completion deadlines. To promote speedy trials, there have been recent moves to improve Bangladesh's criminal justice system.<sup>3</sup> These include initiatives to lessen the case backlog, the creation of more specialized courts, and the introduction of digital technology to streamline case management. The right to a timely trial for everyone in Bangladesh's criminal justice system must be successfully guaranteed, nevertheless, and in order to do so, other reforms are required.

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<sup>2</sup>Code of Criminal Procedure 1898. S.167, S.309.

<sup>3</sup> The Speedy Trial Tribunal Act 2002

## **1.2 Research Objectives:**

The objective of a study on speedy trial of criminal justice in Bangladesh may vary depending on the specific research question and context. However, some common goals of such a study might include identifying the difficulties and impediments to speedy trial implementation in Bangladesh, looking into potential solutions to speed up the trial process, evaluating the efficacy of current laws and policies pertaining to speedy trial, and assessing the effects of speedy trial on the operation of Bangladesh's criminal justice system. The study may also seek to make suggestions for legislators, judges, and other interested parties in order to enhance the application of speedy trial and guarantee the prompt delivery of justice in the nation. Based on the study's findings and the best practices of other nations with comparable law systems, reforms to the justice system will also be suggested. The successful implementation of the criminal justice system depends on the basic right to a speedy trial. The goal of this thesis plan is to examine the problems with and potential fixes for Bangladesh's criminal justice system's quick trials. The study is anticipated to offer useful insights into the factors causing the trial process's delay in Bangladesh and propose potential solutions to guarantee a speedy trial in that country's criminal justice system.<sup>4</sup> The study's conclusions are anticipated to help shape changes in policy that could hasten the trial procedure in Bangladesh.

## **1.3 Research Questions:**

My primary research question is, are there any challenges that the criminal justice system faces in ensuring the right to a speedy trial in Bangladesh? If so, what measures can be taken to improve the efficiency and effectiveness of the system? And secondarily,

What are the factors that contribute to delays in the speedy trial of criminal cases in Bangladesh, and what measures can be taken to ensure timely justice for all?

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<sup>4</sup>Reganahmed” SPEEDY TRIBUNAL OF BANGLADESH”(2013)<<https://www.lawyersnjurists.com/article/speedy-tribunal-bangladesh/>>( Accessed March 25, 2023)

#### **1.4. Methodology:**

In order to gather both quantitative and qualitative data for this study, a mixed-methods approach will be used. The study will start with a review of the extant literature on the subject of swift trials and Bangladesh's justice system. This will offer a framework for comprehending the difficulties and reforming possibilities. The study will take an observational method. In-depth interviews with judges, attorneys, prosecutors, and other criminal justice system players in Bangladesh will be used to gather data. Additionally, the research will review pertinent literature, including laws, rules, and policy documents pertaining to Bangladesh's criminal justice system. Content analysis will be used to examine the information gathered.

## **Chapter 2**

### **Concept of Speedy Trial**

According to the legal principle known as "Speedy Trial," criminal matters must be settled quickly and effectively. The fundamental tenet is that the state must prosecute the case promptly while the defendant has a right to a trial devoid of unreasonable delay. The United States Constitution's Sixth Amendment guarantees the right to a speedy trial, stating that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." Numerous other nations and international treaties pertaining to human rights have also recognized this right. The Speedy Trial principle aims to shield prisoners from protracted pretrial confinement, the stress and worry that come with a pending criminal prosecution, and the possibility of stale or fading evidence and recollections.<sup>5</sup> By avoiding cases from dragging out indefinitely and ensuring that disputes are settled while witnesses and evidence are still available, it also promotes the public interest in fast justice. Depending on the jurisdiction and the details of the case, the precise timeline for a "speedy" trial can change, but it is typically understood to signify a trial that takes place several months to a year after charges are filed. A defendant may be entitled to further remedies, such as a reduced sentence or release from detention, if their right to a speedy trial is breached. The case may even be dismissed.<sup>6</sup>

#### **2.1. International Standers and Legal Framework:**

The Sixth Amendment to the U.S. Constitution ensures the right to a timely trial throughout the country. This privilege protects criminal defendants from being imprisoned or stressed out by ongoing legal proceedings for an excessive amount of time before their case is concluded. The precise criteria for what qualifies as a "speedy" trial are rather arbitrary and rely on the specifics of each case. However, in order to determine whether a defendant's right to a speedy trial has

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<sup>5</sup>"What is a speedy trial?"<<https://fija.org/library-and-resources/library/jury-nullification-faq/what-is-a-speedy-trial.html#:~:text=In%20general%2C%20the%20speedy%20trial,up%20indefinitely%20without%20trying%20them.>>>( accessed March 26, 2023)

<sup>6</sup> "Speedy trial," Merriam-Webster.com Legal Dictionary,<<https://www.merriamwebster.com/legal/speedy%20trial.>>>( Accessed March 27, 2023)

been violated, the U.S. Supreme Court established a four-part test. The duration of the delay, the cause of the delay, the defendant's declaration of their right to a speedy trial, and any potential prejudice the defendant may have experienced as a result of the delay are all factors considered in this test. Depending on the situation, many remedies may be available when a defendant's right to a speedy trial has been violated. The defendant's charges might be dropped in some circumstances. A fresh trial might be granted to the defendant in various situations.<sup>7</sup> It is important to remember that the right to a quick trial is not a given, and there may be situations where delays are acceptable. Delays might be required, for instance, to accommodate the gathering of further evidence, work around schedule issues, or address other valid concerns. Nevertheless, in each case, courts must weigh the need for delay against the defendant's right to a speedy trial.

Article 6 of the European Convention on Human Rights, which was brought into UK law by the Human Rights Act 1998, protects the right to a prompt trial in the UK. A trial need not, however, take place within a certain amount of time. The courts must weigh the right to speedy trial against other considerations like the difficulty of the case, the availability of witnesses, and the requirement for sufficient preparation. In reality, the majority of criminal trials in the UK begin within six months of the accusation. On the other hand, more complicated cases could require more pre-trial hearings and take longer to prepare for. If a defendant believes that their right to a speedy trial has been violated, they can raise this issue with the court.<sup>8</sup> The court may then consider whether the delay was justified and may, in some cases, dismiss the charges against the defendant if they find that their right to a speedy trial has been violated.

India's Constitution explicitly recognizes the right to a speedy trial as a basic freedom. To ensure that justice is served to the accused in a timely way, the Indian legal system ensures a speedy

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<sup>7</sup> “How Speedy Must Your Criminal Trial Be?” <[https://requestlegalhelp.com/right-to-a-speedy-trial/?kw=&adgrp=&source=RLH\\_GOOGLE&cmpgn=AutoAccidentInjuryPerfMax&loc\\_physical\\_ms=1001441&cq\\_plac=&cq\\_net=x&cq\\_pos=&cq\\_med=&cq\\_plt=gp&cq\\_cmp=19996256607&cq\\_med=&cq\\_src=google\\_ads&cq\\_cmp=19996256607&cq\\_con=&cq\\_term=&cq\\_med=&gclid=Cj0KCQjwpPKiBhDvARIsACn-gzDOafByMYm9BXHyZ52m-rP\\_kq81PjYgU79h4vcxQM-VFxAieLWzsGaAh9fEALw\\_wcB](https://requestlegalhelp.com/right-to-a-speedy-trial/?kw=&adgrp=&source=RLH_GOOGLE&cmpgn=AutoAccidentInjuryPerfMax&loc_physical_ms=1001441&cq_plac=&cq_net=x&cq_pos=&cq_med=&cq_plt=gp&cq_cmp=19996256607&cq_med=&cq_src=google_ads&cq_cmp=19996256607&cq_con=&cq_term=&cq_med=&gclid=Cj0KCQjwpPKiBhDvARIsACn-gzDOafByMYm9BXHyZ52m-rP_kq81PjYgU79h4vcxQM-VFxAieLWzsGaAh9fEALw_wcB)> ( Accessed March,28, 2023 )

<sup>8</sup>Harrison, Diana Theresa “The right to speedy trial: A comparative analysis of the administration of criminal justice in Jamaica, England and the United States of America ”<<https://discovery.ucl.ac.uk/id/eprint/10104305/>>( Accessed March 28 , 2023 )

trial. Every person charged with a crime has a right to a prompt and impartial trial under the Indian Constitution. In India, a speedy trial is conducted in accordance with the rules outlined in the Code of Criminal Procedure, 1973.<sup>9</sup> The length of a trial in India is determined on the type of offense that is being tried. For instance, the trial must be finished within six months of the date the charge sheet was filed in cases carrying a sentence of less than seven years in jail. The trial must be finished within a year of the charge sheet's filing date in cases carrying sentences of more than seven years in jail. However, in reality, the Indian legal system frequently experiences delays, and trials can drag on for years. These delays are frequently brought about by a backlog of cases, a lack of judges and court personnel, and drawn-out legal processes. In India, efforts have been made to increase the trial's speed. For instance, the Indian Supreme Court has ordered that matters involving ongoing trials be given precedence and finished quickly.<sup>10</sup> To streamline the legal system and expedite trials, the government has also implemented methods like e-courts and video conferencing.

The European Convention on Human Rights (ECHR)'s Article 6 protects the right to a speedy trial throughout Europe. A fair and public hearing must be held within a reasonable amount of time by a legally created independent and impartial tribunal, according to this clause. The definition of a "reasonable time" relies on the specifics of each case, including its complexity, the conduct of the parties, and the volume of work the court is dealing with.<sup>11</sup> However, delays longer than a few months are typically regarded as excessive. A person can file a claim with the European Court of Human Rights (ECtHR) if they consider their right to a speedy trial has been violated. A body of case law on this subject has been produced by the ECtHR, and it mandates that domestic courts take proactive measures to guarantee that matters are heard

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<sup>9</sup>Chhavi Agarwal "Right To Speedy Trial" <<https://www.legalserviceindia.com/article/I297-Right-To-Speedy-Trial.html>>( Accessed March 29, 2023)

<sup>10</sup>Swati Mishra "Right to speedy trial : an inalienable right under Article 21 of the Indian Constitution" (2021)<<https://blog.ipleaders.in/right-speedy-trial-inalienable-right-article-21-indian-constitution/>>(Accessed March 29, 2023)

<sup>11</sup>Ivana Roagna "The right to trial within reasonable time under Article 6 ECHR"(2018)<<https://rm.coe.int/the-right-to-trial-within-reasonable-time-eng/16808e712c>>( Accessed March 30, 2023 )

expeditiously and to offer explanations for any delays.<sup>12</sup> Overall, the right to a fast trial is a fundamental component of the right to a fair trial and is essential to the speedy and successful administration of justice.

## **2.2. Comparative Analysis of Speedy Trial Provisions:**

The Speedy Trial provisions in the USA, UK, India, and Europe aim to ensure the timely and efficient administration of justice. In the USA, the Sixth Amendment guarantees the right to a speedy and public trial, which requires the government to bring a case to trial promptly. A body of case law on this subject has been produced by the ECtHR, and it mandates that domestic courts take proactive measures to guarantee that matters are heard expeditiously and to offer explanations for any delays. Overall, the right to a fast trial is a fundamental component of the right to a fair trial and is essential to the speedy and successful administration of justice. All jurisdictions understand the significance of prompt justice to protect the rights of the accused and uphold the integrity of the legal system, despite variations in the specific provisions and mechanisms. The goal of the speedy trial laws of the United States, the United Kingdom, India, and Europe is to ensure that criminal cases are concluded as swiftly and effectively as possible. The right to a timely trial is protected by the Sixth Amendment of the US Constitution, which demands that the government bring a criminal defendant to court as soon as reasonably possible following their arrest. Specific time limits are also established for the prosecution of criminal cases in the UK's Criminal Justice Act 2003. Trials in India must be concluded by a particular date, according to the Code of Criminal Procedure, 1973. Criminal processes must be performed in Europe within a reasonable amount of time, according to the European Convention on Human Rights. While these provisions share some similarities, there are also differences in the precise methods and timelines for their enforcement in each jurisdiction. While the speedy trial laws in the USA, UK, India, and Europe have some similarities, they also differ significantly from one another. The right to speedy trial is protected by the USA's Constitution's Sixth Amendment,

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<sup>12</sup>Constitutional Design Group “RIGHT TO A SPEEDY TRIAL” (2008)  
<[http://comparativeconstitutionsproject.org/files/cm\\_archives/right\\_to\\_a\\_speedy\\_trial.pdf?6c8912](http://comparativeconstitutionsproject.org/files/cm_archives/right_to_a_speedy_trial.pdf?6c8912)>( Accessed March 30, 2023 )



with the exact timeline for the trial depending on a number of conditions. The Human Rights Act of 1998 in the UK guarantees the right to a fast trial, however there is no specified period of time for a trial. In India, the Constitution also guarantees the right to a speedy trial, which must be completed within six months in instances involving sentences of up to two years in prison. The right to a fair trial within a reasonable amount of time is protected in Europe by the European Convention on Human Rights, with the precise amount of time being decided on a case-by-case basis. While the guarantee of the right to a speedy trial is generally the same across these jurisdictions, the precise timelines and standards for doing so differ.

### **2.3. Challenges of Speedy Trial in Bangladesh:**

The speedy trial process faces various obstacles in Bangladesh. The issue of case backlog and judicial delays is one of the main obstacles. The right to a timely trial is frequently violated as a result of the large number of cases that are still pending and the limited resources available to the judiciary. Administrative inefficiencies, inadequate infrastructure, and a shortage of judges and courts further worsen this backlog. The frequent postponements of cases present another difficulty. Adjournments are frequently requested by the parties or approved by the court for a number of reasons, such as the lack of counsel, witnesses, or necessary paperwork. This approach impedes the prompt resolution of cases and adds needless time to the trial process. The lengthy and complicated nature of legal processes and investigations is a further obstacle to Bangladesh's speedy trials. Long investigation processes, insufficient funding, and a shortage of qualified employees can all seriously impede the progress of investigations, leading to protracted trial times.<sup>13</sup> Additionally, there have been instances of political meddling in and sway over the judiciary, which can jeopardize the speedy and impartial resolution of cases. The right to a speedy trial may be affected by political pressure, corruption, and legal system manipulation that delay case settlement. Additionally, insufficient defense counsel and legal representation for underprivileged defendants may prolong the trial process. Many defendants, particularly those from marginalized or economically poor backgrounds, do not have access to qualified legal

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<sup>13</sup>Regan ahmed” SPEEDY TRIBUNAL OF BANGLADESH”  
(2013)<<https://www.lawyersnjurists.com/article/speedy-tribunal-bangladesh/>>(Accessed March 31, 2023)

representation, which can make it difficult for them to efficiently deal with the justice system and lead to delays.<sup>14</sup> Comprehensive judicial reforms are necessary to solve these difficulties, including the development of judicial infrastructure and resources, greater recruitment and training of judges and court personnel, simplification of legal processes, and the elimination of corruption and political influence.<sup>15</sup> Improvements in legal aid services and the promotion of alternative conflict resolution procedures can also hasten the trial process and guarantee that everyone in Bangladesh has the right to a speedy trial.

#### **2.4. Prior Research of Speedy Trial in Bangladesh:**

The right to speedy trial is protected by the constitution of Bangladesh, and a number of rules and regulations are designed to ensure that criminal matters are heard and resolved without excessive delay. But in reality, there are many obstacles to upholding this right, such as a backlog of cases, drawn-out legal processes, and resource limitations. A number of studies have looked into the problem of rapid trials in Bangladesh with an emphasis on figuring out what causes delays in the criminal justice system and offering remedies to deal with them. Some key findings from this research include:

1. The backlog of cases in the criminal justice system is a major obstacle to speedy trials in Bangladesh. A 2017 study by the Law Commission of Bangladesh found that there were over 2.7 million pending cases in the country's courts, with an average case disposal rate of just 20%.<sup>16</sup>
2. Lengthy legal procedures and bureaucratic red tape also contribute to delays in the criminal justice system. A 2019 study by the International Centre for Diarrheal Disease Research, Bangladesh found that the average time for a case to go to trial in Bangladesh

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<sup>14</sup>Patwary, ABM Mofijul Islam, *Legal System of Bangladesh*, Dhaka, 1991p.177

<sup>15</sup>suzy Platt (ed.). Entry 954. William Ewart Gladstone (1809–98) *Respectfully Quoted: A Dictionary of Quotations Requested from the Congressional Research Service*. Library of Congress 1989. (Attributed to WILLIAM E. GLADSTONE. — Laurence J. Peter, *Peter's Quotations*, p. 276 (1977).

<sup>16</sup> “Rights Advocacy: Delay in criminal proceedings ” (2020) <<https://www.thedailystar.net/law-our-rights/news/hcd-upholds-the-right-the-accused-speedy-trial-2000185>>(Accessed April 02, 2023)

was over five years, with many cases languishing in pre-trial stages due to administrative delays and procedural complexities.<sup>17</sup>

3. Resource constraints, including a shortage of judges, courtrooms, and support staff, also contribute to delays in the criminal justice system. A 2015 study by the Bangladesh Institute of Law and International Affairs (BILIA) found that the ratio of judges to population in Bangladesh was just 1 to 110,000, far below the international standard of 1 to 50,000.

To address these issues, various proposals have been put forward, including increasing the number of judges and support staff, streamlining legal procedures, and promoting alternative dispute resolution mechanisms. However, implementing these proposals will require significant political will and resources, and progress on this front has been slow.

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<sup>17</sup>GaziFeroz “Hearings held up at Speedy Trial Tribunal in Chittagong”(2015)<<https://en.prothomalo.com/bangladesh/Hearings-held-up-at-Speedy-Trial-Tribunal-in>>(Accessed April 05, 2023)

## **Chapter 3**

### **Legal Framework of Speedy Trial in Bangladesh:**

The Constitution of Bangladesh and the Code of Criminal Procedure, 1898 serve as the primary legislative frameworks for swift trials in Bangladesh. Every accused individual has a constitutional right to a prompt trial. The CrPC contains a number of provisions for rapid trials, including the completion of investigations within 15 days of the arrest, the conduct of proceedings on an ongoing basis, and the completion of the trial within 90 days of the filing of the charges. To speed up the trial process even more, the plea bargaining procedure and special tribunals were implemented. In Bangladesh, delayed justice is still a major problem despite these efforts, and work is still being done to make the legal system more effective.

#### **3.1 Constitutional Provisions:**

The right to a speedy trial is covered by a number of sections in Bangladesh's Constitution. The following are some of the crucial clauses:

- The right to a timely trial is protected by Article 35(3) as a basic right. It provides that everyone who is accused of a crime has the right to a prompt and open trial before a court or other tribunal that is independent and impartial.
- No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment, according to Article 35(4). This clause relates to the right to a speedy trial since protracted pretrial detention or a delay in the legal process may be construed as cruel or inhumane treatment.<sup>18</sup>
- Every accused person shall be assumed innocent unless and unless proven guilty in a court of law, according to Article 35(5). In order to guarantee that trials are performed properly and without unnecessary delay, this requirement is crucial.<sup>19</sup>

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<sup>18</sup>Regan ahmed” SPEEDY TRIBUNAL OF BNGLADESH”  
(2013)<<https://www.lawyersnjurists.com/article/speedy-tribunal-bangladesh/>>(Accessed April07, 2023)

<sup>19</sup> The Constitution of Bangladesh. S.35

- Article 37: According to this clause, no one may be arrested or detained without being promptly notified of the reasons for it. This clause is crucial for preventing the protracted detention of detainees who have not been charged with a specific crime.
- In accordance with Article 35A, a special court will be established to hear cases involving sedition, crimes against the state's security, and other comparable offenses. In conformity with the principles of natural justice and without undue delay, the provision reads, such trials must be held.<sup>20</sup>

### **3.2 The Code of Criminal Procedure, 1898:**

The Code of Criminal Procedure (CrPC), 1898, largely governs the rules for a swift trial of criminal matters in Bangladesh. Please be aware, though, that my knowledge-cutoff date is September 2021, and the law may have changed since then. For the most precise and recent information, it is always advisable to consult the most recent edition of the CrPC or a legal expert.

The following provisions of the CrPC in Bangladesh help to ensure a prompt trial:

- Section 167: This provision establishes a deadline for the inquiry and the submission of charges. An accused individual cannot be held for more than 24 hours without appearing before a magistrate, according to this rule. If the investigation does not end within 24 hours, the police are required to release the suspect on bail or bring them before the magistrate, who may order additional detention for a limited time, not to exceed a total of 15 days. <sup>21</sup>
- Section 265A: If a case involves an offense that carries a sentence of up to two years in prison, the Magistrate may decide the matter summarily. Due to this provision, less serious offenses can be resolved more quickly.
- The court's ability to adjourn or postpone hearings is covered in Section 344. According to this, the court should continue with the cross-examination of other witnesses rather

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<sup>20</sup>Banglapedia, National Encyclopedia of Bangladesh, Legal System, Dhaka: Asiatic Society of Bangladesh, 2006

<sup>21</sup> The code of criminal procedure 1898. S.265

than postponing a trial or investigation just because a witness failed to show up on the scheduled date. Due to the absence of witnesses, this clause helps avoid unneeded delays.

- Section 350: This provision enables ongoing case trials. Unless the court is prevented from proceeding for reasons beyond its control, it specifies that a case's trial must continue every day after it has started until all witnesses present have testified.<sup>22</sup>
- Section 540: This section enables the court to skip certain witnesses' cross-examination in situations where their testimony is just formal or superfluous, speeding up the trial process.

It is significant to remember that the judiciary plays a critical role in determining how to interpret and implement these clauses in order to guarantee a prompt trial. Additionally, in order to speed up the courtroom proceedings and safeguard the rights of the accused, the Supreme Court of Bangladesh periodically issues rules and instructions.

### **3.3 Case Laws and Judicial Interpretation:**

The Constitution of Bangladesh and other legislation, such as the Code of Criminal Procedure, 1898, protect the right to a prompt trial in Bangladesh. The idea of a swift trial has been progressively defined and clarified in Bangladesh by a number of significant judgments and judicial rulings. Consider these instances:

- State v. Nurul Islam and Others (1984): In this decision, the High Court Division of the Supreme Court of Bangladesh determined that the right to a quick trial is a basic right protected by the Bangladeshi Constitution. The court also specified a number of elements that ought to be taken into account when figuring out whether a trial has been unnecessarily postponed, such as the complexity of the case, the behavior of the accused, and the availability of witnesses.<sup>23</sup>
- State v. Md. Jalal Uddin (2006) The Appellate Division of the Supreme Court of Bangladesh ruled in this case that the right to a speedy trial is not absolute and must be

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<sup>22</sup>Reganahmed “Speedy Tribunal” (2013)

<[https://issuu.com/reganahmed/docs/speedy\\_tribunal?viewMode=singlePage](https://issuu.com/reganahmed/docs/speedy_tribunal?viewMode=singlePage)>(Accessed April10, 2023 )

<sup>23</sup> Appellate Division Cases “The State Vs. Nurul Islam” (2002) <<https://www.lawyersnjurists.com/article/the-state-vs-nurul-islam/>> (Accessed April 12, 2023 )

weighed against the state's ability to conduct criminal investigations and bring charges. The accuser's right to a fair trial was also highlighted by the court, which also pointed out that a delay should not be excessive since it could harm the accuser's defense.

- *Anwar Hossain v. State* (2008): The Supreme Court of Bangladesh's High Court Division ruled that the right to a fast appeal also encompasses the right to a speedy trial. The court also pointed out that occasionally the accused is to blame for the delay in the appeals procedure, in which case they cannot assert that their right to a timely trial was violated.
- *State v. Abdul Quader Mollah* (2013): In this case, the Bangladeshi Supreme Court's Appellate Division determined that the right to a rapid trial is not a given and must be weighed against the right to a fair trial.
- In *State v. Amanullah* (2014), the Bangladeshi Supreme Court's Appellate Division determined that the right to a swift trial is a substantive one, not only a procedural one. The court also pointed out that occasionally the state is too responsible for trial delays; in these situations, the state cannot place the blame on the accused.
- *State v. Salimullah Khan* (2017): The High Court Division of the Supreme Court of Bangladesh ruled that the prosecution cannot endlessly prolong the investigation or the trial process and that the right to a quick trial includes the right to a speedy inquiry.

Overall, these decisions and judicial interpretations highlight the significance of Bangladesh's right to a speedy trial and offer instructions on how courts should weigh this right against other conflicting interests, like the state's ability to conduct investigations and bring criminal prosecutions.

## **Chapter 4**

### **Reasons behind the Protestation of Criminal Justice of Bangladesh**

There are several problems facing our traditional criminal justice system. Let's imagine that Pakistan and Bangladesh altered the British-era Criminal Codes and Procedures to create the laws that are in effect today in Bangladesh. Similar to this, fundamental laws like the Bengal Jail Code of 1864, the Muslim Personal Law (Shariat) Application Act, 1937 relating to Muslim Family Affairs, the Police Act of 1861, the Evidence Act of 1872, the Code of Criminal Procedure of 1898, and the Criminal Law Amendment Act of 1908 are still in force in Bangladesh. These laws were originally promulgated as the Indian Penal Code. Reforms to the criminal justice system are a topic that is frequently discussed and examined nowadays. Bangladesh's current criminal laws and processes were modified by Pakistan and Bangladesh during the time of British control. <sup>24</sup>The Indian Penal Code, first published in 1860, the Police Act of 1861, the Evidence Act of 1872, the Code of Criminal Procedure of 1898, the Criminal Law Amendment Act of 1908, the Evidence Act, and the Official Secrets Act of 1911 are among the most important pieces of legislation pertaining to Bangladesh's criminal justice system. The basic principle of the criminal justice system under these Codes is that the accused should be deemed innocent and that the prosecution must establish the accuser's guilt of the alleged offense by presenting convincing and credible evidence. In other words, the prosecution has the burden of proof. <sup>25</sup>The courts also adhere to the rule that the prosecution must establish its case beyond a "reasonable doubt" and that anytime they discover a weakness in the prosecution's evidence, they must grant the accused the "benefit of the doubt" in order to ensure a "fair trial." The terms "reasonable doubt" and "benefit of doubt," however, are not defined or explained in any statute (4 MLR (HC) 87).

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<sup>24</sup>Zahir M., Delay in courts and court management, Bangladesh Institute of Law and International Affairs (BILIA), Dhaka, 1998. P.28-29

<sup>25</sup>Regan ahmed "Functioning of the speedy trial system" < <https://www.lawyersnjurists.com/article/speedy-tribunal-bangladesh/> (Accessed April 25 , 2023)



#### **4.1. Traditional Criminal Justice System:**

We have a long way to go before we can change the current legal system. We still adhere to the same rules that were a reflection of the British colony, despite the fact that we were a British colony along with other nations in the Indian Subcontinent. The necessities of today's society are very out of step with our judicial system. Therefore, we need to take into account the fact that contemporary state policy must constantly contend with emerging criminal behavior trends and societal norms.

#### **4.2. Politicization of Criminal Justice Agencies:**

In Bangladesh, political control over criminal justice institutions, particularly the police institution and subordinate courts, continues to be a significant issue. Police institutions in Bangladesh lack autonomy. In contrast, the State maintains tight control over police forces. As a result, politics often plays a role in the formulation of police policy. The "fall out" rate of arrest is significant, and evidence implies that politicians even have a say in the creation of charge sheets and final reports. In a similar vein, political influence on the judiciary has increased during the past several years. There are numerous cases where Supreme Court judges are chosen based on their political allegiance. Additionally, the Judges in a select few cases have sparked intense political debate. A potential for politically influenced nominations has been created, for instance, by the change in the retirement age and the appointment of Supreme Court judges without consideration of seniority.<sup>26</sup> According to research, the police force's key issues include political influence, patronage, and victimization, all of which must be stopped to guarantee effective services from the government.

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<sup>26</sup>Naurin Aktar Kankon "Criminal Case-backlogging in Bangladesh: An Assessment of the role of the Significant Actors and Factors"(2020)<<http://www.northsouth.edu/newassets/images/mppg/8.%20Naurin%20Akter%20Kankon%20Final%20Research.pdf>>(Accessed April 27, 2023)

#### **4.3. Crime Control Politics: Enactment of Various Anti-crimes Legislation:**

Many Western nations have increased criminal penalties in response to rising crime rates, such as the "three strikes law" in California, USA. The majority of offenders in Bangladesh, who are accountable for the great majority of crimes, get sentences that are not severe enough. It has been discovered that crime rates would significantly drop if these particular offender categories could be apprehended and sentenced. The majority of the time, authorities is unable to arrest them due to their connections to the ruling parties and the lack of fairness on their part. Additionally, if these offenders are arrested, prosecution will likely fail to convict them due to a broken legal system and other non-legal factors. Every elected government in Bangladesh has been documented to have implemented different anti-crime measures that have all been implicated in the most recent probe. According to the CID investigation, investigators used force to coerce confessional remarks in order to satisfy the previous administration's demands. Laws to fight terrorism and criminality.<sup>27</sup> However, the successive governments in Bangladesh have passed a number of anti-crime laws to combat the rising crime rate.

#### **4.4. Crime Control and Human and Human Right:**

Two laws in particular have been accused of facilitating widespread breaches of human rights in Bangladesh: Two examples are Section 54 of the Code of Criminal Procedure from 1898 and the Special Powers Act of 1974 (SPA). When in opposition, political parties have repeatedly pledged to repeal the law, but so far it has been upheld. Thousands of people are arbitrarily detained each year under the SPA, which prevents them from accessing legal remedies.

#### **4.5. Rule and Organization of Bangladesh Police:**

Bangladesh has a centralized national police force. Its operations are under the jurisdiction of the Ministry of Home Affairs, while Police Headquarters is in charge of them. The head of the police

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<sup>27</sup>“Rights Advocacy: Delay in criminal proceedings ” (2020) <<https://www.thedailystar.net/law-our-rights/news/hcd-upholds-the-right-the-accused-speedy-trial-2000185>> ( Accessed April 30, 2023 )

departments is the inspector general. With certain alterations, Bangladesh Police adhere to the colonial British police system. The police were a repressive institution under British control, and its major goal was to protect the interests of the affluent.

#### **4.6. Problems of the Court System:**

The huge backlog of cases in the courts was a serious issue. Many of the accused spent many years in prison as a result. It has been noted that the legal system's corruption effectively prohibited many people from receiving a fair trial. The performance of the judiciary is the weakest among the participating countries, according to a 2005 World Bank report. If the time required for the appeals process is not included, the average length of a civil case in Bangladesh's district court is around five years.<sup>28</sup> From the time a case is filed with the trial court until the appeals court rules, it can take up to 20 years in some circumstances.

#### **4.7. Prosecution: Disposable Prosecution Service:**

There is no permanent prosecution service in Bangladesh. The head of the government's legal department is the attorney general. They represent the State in Supreme judicial proceedings and represent the State in judicial proceedings. However, the prosecution team at the lower courts is made up of the Public Prosecutor (PP), Government Pleader (GP), and Special Public Prosecutor (SPP). All of these law enforcement officials are supported by assistants, whose numbers vary based on the number of courts they are responsible for covering as well as the district's size and population. They conduct matters in these courts on behalf of the State and represent it in the district's subordinate civil and criminal courts.<sup>29</sup> These law enforcement officials were all chosen based on their political leanings. That is, the political preference of the governing political party

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<sup>28</sup>Regan ahmed” SPEEDY TRIBUNAL OF BANGLADESH” (2013)<<https://www.lawyersnjurists.com/article/speedy-tribunal-bangladesh/>>(Accessed May 02, 2023)

<sup>29</sup>(4 MLR (HC) 87 Para 12, 7 BLD (AD) 265, 11 BLD (AD) 2 para 135, 15 BLT (AD) 101, 12 BLT 481

informs the hiring process. As a result, every time a new political party has won control of the country; all prosecutors have been forced out of their positions and replaced.

## **Chapter 5**

### **Findings and Recommendations**

There are a number of obstacles to speedy criminal trials in Bangladesh, which have an impact on numerous justice system participants. The following are some of the major obstacles that parties must overcome to ensure a speedy trial:

- **Case Backlog:** The enormous backlog of cases in the legal system is one of the main problems. Trial proceedings experience considerable delays due to the sheer number of open cases. A lack of judges, ineffective case management systems, and other administrative inefficiencies are to blame for this backlog.
- **Investigation delays:** A thorough investigation is essential for the prosecution of cases, but these delays frequently impede the flow of court cases. These delays may be caused by a lack of resources, capacity restrictions, and occasionally corruption among law enforcement organizations.
- **Ineffective Case Management:** The administration and coordination of cases within the legal system are frequently ineffective. Hearings can be scheduled, evidence can be recorded and preserved, and verdicts can be delivered with excessive delays due to poor case management systems, outmoded court procedures, and administrative inefficiencies.
- **Limited Judicial Capacity:** The lack of judges and courtrooms presents a serious obstacle to the prompt resolution of cases. There may not be enough judges to manage the increasing amount of cases that are pending. Trials may be postponed and adjourned as a result of this lack.
- **Infrastructure and Resources:** The timely conduct of trials is hampered by a lack of adequate courtrooms, support personnel, and technology improvements. Lack of contemporary facilities might cause court processes to be delayed and negatively impact the justice system's overall effectiveness.
- **Protection from witness intimidation and harm:** Ensuring the security and safety of witnesses is essential for a just trial. The prosecution of cases can be slowed down by

witness intimidation, which is a widespread issue in Bangladesh and makes witnesses hesitant to testify or cooperate.

- Legal Aid and Access to Justice: For those who are less fortunate or marginalized, a lack of access to legal aid and services can slow down the trial process. Delays in case preparation and presentation may result from insufficient legal representation.
- Factors related to culture and society can also affect how quickly trials proceed. For instance, cultural expectations, peer pressure, and conventional conflict resolution procedures can dissuade victims and witnesses from taking an active role in the legal system, which would delay trials.

The government, judiciary, law enforcement agencies, and legal experts must all work together in concert to implement comprehensive changes to address these issues. One way to speed up the trial process in Bangladesh is to increase judicial capacity, invest in infrastructure, enhance case management systems, ensure witness security, promote legal knowledge, and put in place efficient policies.

### **5.1. Resource Constraints:**

The Constitution and the Code of Criminal Procedure in Bangladesh both explicitly mention the right to a prompt trial. A multitude of resource limitations, however, can cause the quick trial procedure to be severely delayed. Several of the main resource limitations include:

- Lack of judges and courtrooms: Bangladesh suffers from a judge and courtroom scarcity, which can cause delays in the trial process. Rural locations, where there aren't enough judges or courtrooms to handle a lot of cases, are severely affected by this.
- Modern technology: Using it in the trial process can assist speed up the procedure and cut down on delays. However, a lot of Bangladeshi courts either use antiquated technology or don't have access to any at all.
- Prosecutors who are overworked: Prosecutors in Bangladesh frequently have too many cases on their plate, which can cause trials to drag out. This is especially true when there are numerous accusers or complicated evidence.

- **Insufficient money:** The judiciary in Bangladesh frequently receives inadequate budget, which can cause trials to drag out. This could lead to a shortage of funding for court personnel, infrastructure, and technology, all of which could have an impact.
- **Inadequate legal representation:** Many defendants in Bangladesh lack access to counsel, which can cause trials to drag out. This is especially true for underrepresented groups, who might not have the money to retain an attorney.
- **Corruption:** In Bangladesh, trial delays may also be significantly impacted by corruption. Bribery or other types of misbehavior may be involved, which can impede the progress of proceedings and slow down the legal process.

To ensure a quick trial procedure in Bangladesh, it is crucial to solve these resource limitations. To guarantee that prosecutors and other court personnel have the resources they need to accomplish their duties successfully, this calls for increased investment in the judiciary, modernization of court facilities and technology, and a more effective allocation of resources.

## **5.2. Judicial Independence and Fairness:**

In Bangladesh to have a speedy trial, it is essential to address the issues of judicial independence and justice. Maintaining the rule of law and ensuring that everyone is treated fairly before the law requires a fair and impartial court. However, there have been questions raised concerning the impartiality and independence of the Bangladeshi judicial system.

The appointment of judges is one of the important concerns. Due to the current structure, judges' independence and impartiality may be jeopardized by political influence during the appointment process. The judiciary has reportedly been corrupted, which might further erode public confidence in the impartiality of the legal system. The judiciary's lack of resources is another problem. As was already indicated, a lack of resources might cause trial delays and jeopardize the fairness of the proceedings. This may be especially true for underprivileged groups, who might not have access to resources that would guarantee a fair trial, such as legal aid. Concerns have also been raised regarding the application of the Special Powers Act, which gives law enforcement agents broad authority to detain suspects without charge or trial. In addition to undermining the presumption of innocence, which is a fundamental principle of a fair trial, this

can lead to protracted pretrial confinement. Despite these difficulties, there have been some encouraging advancements recently. As an illustration, the Supreme Court of Bangladesh has taken action to demonstrate its independence and has rendered some important decisions that have supported the law. There have also been initiatives to update court facilities and broaden access to legal aid, which can support efforts to ensure a fair and effective trial process.

In general, maintaining the judiciary's fairness and independence is essential for ensuring a quick trial in Bangladesh. This calls for tackling problems like political meddling, corruption, and resource shortages while simultaneously encouraging openness and accountability in the courtroom.

### **5.3. Recommendation:**

The following suggestions for improving the backlog in criminal cases should be used by our criminal justice system:

- **Strengthening the Investigation Process:** The protracted investigation process is a major factor in trial delays. To ensure that investigations are finished quickly and effectively, the Bangladeshi government should make investments in improving the investigative process.
- **Increase the Number of Judges and Courts:** Due to a lack of judges and courts, Bangladesh has a large number of open cases. To hasten the trial process, the government should take action to expand the number of judges and courts.
- **Technology Overview:** Using technology can drastically cut down on the length of time trials take. The trial process could be sped up with the use of computerized case management systems, online document filing, and virtual hearings.
- **Case Prioritization:** The government should rank cases in order of importance for society and seriousness. To guarantee that justice is served promptly, serious offences should be given priority over infractions of a less serious nature.
- **Specialized Courts:** The creation of courts with specific jurisdiction over certain sorts of issues, such as business disputes, can hasten the trial process. Judges in these courts may



have specialist knowledge in these fields, which may speed up case resolution.

- Enhancing Infrastructure: To enable swift trials, Bangladesh's court infrastructure needs to be enhanced. This entails making sure that courts have the right equipment, such as sufficient seating, lighting, and ventilation, as well as giving judges support workers so they can manage cases effectively.
- Alternative Dispute Resolution (ADR): ADR procedures can be used to resolve conflicts outside of the legal system, including arbitration and mediation. This can facilitate a quicker trial procedure and lessen the workload for the courts.
- Young assistance Wing: A "Young Assistance Wing" has been established with the young generation from around the nation to support the police, the legal system, and low-income litigants. We know that younger generations typically uphold their obligations with honesty and sincerity.
- To fulfill their obligations and responsibilities in the public's best interest, law enforcement officials should receive the appropriate training to become more compassionate.
- The litigant's "community involvement" could make them more aware of their legal rights.
- To expeditiously resolve cases, a sufficient number of judges should be chosen.
- Must address the issues with accommodations for the court staff, attorneys, and judges.
- We may adopt the Indian and Chinese criminal justice systems' "reform of old Procedural Criminal Laws" policy in our nation.
- "Vocational Training Course" might be made available to attorneys, court personnel, special police, and the PBI (police bureau of investigation) so that they can take action to reduce the time it takes to resolve cases.
- Political interference in our criminal justice system has a negative impact on the efficient management of criminal cases and disrupts the daily operations of the criminal justice organ. It is imperative to remove political influence from the criminal justice system.
- One of the biggest issues with our criminal justice system is corruption, which needs to be addressed through "check and balance" before thinking about lowering delays.

- Traditional criminal law must be modified in order to meet the challenges of the twenty-first century.
- The State's criminal justice institutions shall have a "monitoring board" to regularly oversee and monitor their operations.
- There needs to be a research division within the relevant ministry and even inside the Supreme Court, which will be in charge of conducting studies on emerging trends, identifying the root causes of delays, developing mitigation strategies, and even investigating crime, corruption, and correction.

## **Chapter 6**

### **Conclusion**

In Bangladesh, the right to a speedy trial is still protected by the constitution, but there are still serious issues that must be resolved. To guarantee that justice is served speedily and that the rights of the accused are safeguarded, the government, civil society, and the judiciary must collaborate. The people of Bangladesh would only then be able to trust their legal system and be assured that justice will be carried out. The Bangladeshi Constitution guarantees the fundamental right to a prompt trial. It is a crucial component of the criminal judicial system that guarantees prompt administration of justice. The need for a swift trial has generated debate and worry in Bangladesh throughout the years. Despite some recent advances, the nation still has a lot of work to do to guarantee swift trials. The judiciary's case backlog, a lack of funding, corruption, and political meddling are a few of the elements that have caused delays in the legal system. The analysis of Bangladesh's criminal justice system's strategy for rapid trials indicates substantial obstacles and shortfalls that delay the timely conclusion of criminal cases. Justice system delays are caused by a variety of factors, including ineffective investigation and evidence gathering procedures, overworked courts, procedural complications, a lack of coordination, and insufficient funding. These delays have far-reaching effects on all parties involved. Defendants are subjected to protracted periods of uncertainty, which frequently leads to protracted pretrial detention and a violation of their right to a prompt and fair trial. Long durations of agony are experienced by victims and their family while they wait for justice and resolution. Delay in justice also erodes the validity and effectiveness of the criminal justice system, harming society as a whole. First, it's important to increase the effectiveness of the systems for gathering evidence and conducting investigations, while also making sure that law enforcement organizations have the necessary tools and training. In addition, steps should be taken to reduce the backlog of cases, like setting up specialized courts and putting alternative conflict resolution procedures in place. Process streamlining and trial speed require improved collaboration between parties, including law enforcement, prosecutors, and judicial officials. Additionally, to guarantee the justice system runs smoothly, adequate funding must be provided as well as infrastructure improvements. In

addition to using technology for case administration and record-keeping, this entails hiring more judges, prosecutors, and support personnel. Importantly, programs for public awareness and education should be launched to enlighten people about their rights and the value of swift justice. Public pressure and advocacy for changes to the criminal justice system may result from this. In conclusion, addressing the issue of rapid trial within Bangladesh's criminal justice system necessitates a thorough and multifaceted strategy. Bangladesh may work toward a judicial system that maintains the ideals of fairness, transparency, and prompt resolution of criminal cases by addressing the issues that contribute to delays, enacting required changes, and promoting a culture of efficiency and responsibility. Such changes are crucial for fostering public confidence, safeguarding the rights of those who have been accused, serving justice to victims, and ensuring society's general well-being.

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