Sonargaon University (SU)

Research Monograph

On

“The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions”

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

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

Submitted To

Mohammad Ali

Lecturer

Department of Law

Sonargaon University (SU)

Submitted by

A.K.M. Ahasanul Haque

ID No. LL. B 2202026018

Program: LL. B (Hon’s)

Department of Law

Sonargaon University (SU)

Date of Submission: July, 2026

Letter of Transmittal

To

Mohammad Ali
Lecturer

Department of Law

Sonargaon University (SU)

Subject: Submission of Research Monograph on "**The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions"**

Dear Sir,

This is a great pleasure to submit the Research Monograph on **"The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions"** as a partial requirement for the fulfillment of my LL.B course under the Department of Law of the Sonargaon University (SU).

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

Yours sincerely

....

A.K.M. Ahasanul Haque

ID No. LL. B 2202026018

Program: LL. B (Hon's)

Department of Law

Sonargaon University (SU)

Declaration

I do hereby declare that the Research Monograph Title **“The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions”** prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL. B (Hon’s) Degree. This is an original work of nine. No part of this research, in any way of or in from, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

....

A.K.M. Ahasanul Haque
ID No. LL. B 2202026018

Program: LL. B (Hon’s)

Department of Law

Sonargaon University (SU)

Supervisor Certificate

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

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

....

Mohammad Ali
Lecturer

Department of Law

Sonargaon University (SU)

Acknowledgement

***In the name of Allah, the Beneficent, the Merciful".** Praise by Allah & thanks to Allah for patronizing me to finish this Research Monograph. I am very happy to finish it. It is a great Research of my life. It is a long-cherished hope of my life to become a great lawyer. That's why I have admitted in the Department of Law in Sonargaon University (SU) to fulfill my dream. But through my whole study life in this field, I did not get much more opportunities to examine and show my knowledge and skill in this wide field. Lastly I have got a great chance to make my study meaningful when I got the chance to prepare a Research Monograph on **The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions**

I acknowledge my grateful to respected course teacher **Mohammad Ali** for instructing me how to prepare a Research Monograph and his famous Books lectures on this subject help me to complete my task sincerely.

I am also thankful to my classmate as they help me to complete the Research Monograph. I am extremely paying my solitude to all the authors and writers whose works help me to draft this original Research Monograh.

We are indeed thanks to everyone who inspired us to write this Research Monograh.

Thank you

A.K.M. Ahasanul Haque

ABSTRACT

This dissertation is focused on the Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions" Causes of Delay in Disposing Criminal Cases in the Criminal Justice System of Bangladesh" is a mechanism to ensure human rights and fundamental rights of the people of the society. The primary purpose of Criminal Law and Criminal Justice System is to control crime, punish the offenders, prevent crimes, protect innocents, and to maintain a fair degree of solidity and stability in society. In this thesis, the main objectives are to explore the Criminal Justice System In Bangladesh, to analyze the recent legislative and judicial trends and investigate the problems of criminal justice system and to find out ways to solve the problems if there are any. However there are some well-known problems such as, delays in Criminal Justice System are various in natures. Procedural delay can be found both in at investigation and trial stages. Low budgetary allocation for the prosecutorial service, Lack of accountability, Lack of professional competence and proper training remain major weaknesses of our prosecutorial service that undermine the process of Criminal Justice system in Bangladesh. It is recommended that Court Resource should be increased to cope up with the case load. Proportion of judges must be increased according to judge's population ratio. Effective planning management and coordination should be taken high important to clear up and monitor the backlog of cases. Government should make a choice for permanent Attorney system to secure speedy and important justice system. A proper Criminal Justice system can ensure that the society is in peace and harmony. People will be more aware of their rights and those who do wrong, will be punished accordingly. By this procedure the rule of law can be established and democracy can be practiced effectively.

TABELE OF CONTENTS

Chapter 1

INTRODUCTION

1.1 Introduction 1

1.2 Objectives of the Study 1

1.3 Literature Review 2

1.4 Research Questions 3

1.5 Definition 4

1.6 The test of intention 4

Chapter 2

STATISTICS OF CRIME IN BANGLADESH

2.1 How Much Crime is there? 5

2.2 Awareness of crime...5

2.3 Reporting crime 6

2.4 Recording crime 8

2.5 White-collar and corporate crime 8

2.6 Statistics and conclusions 9

Chapter 3

NATURE OF CRIMINAL LAW

3.1 Nature of criminal law 12

3.2 Elements of Crime 12

3.3 General Discussion 15

3.4 Criminal Law — Its Nature and Elements 17

Chapter 4

CRIMINAL JUSTICE IN INTERNATIONAL PROSPECTS

4.1 Criminal Justice System in India 19

4.2 Intro to the American Criminal Justice System 22

4.3 Components of the Criminal Justice System 23

4.4 Law Enforcement 23

4.5 Adjudication 24

4.6 Corrections 25

Chapter 5

CRIMINAL JUDICATURE IN BANGLADESH

5.1 Criminal Courts 27

5.2 Classes of Criminal Courts 27

5.3 Observation through some criminal cases in Bangladesh...28

Chapter 6

RECOMMENDATIONS & CONCLUSION

6.1 Recommendations 31

6.2 Conclusion 32

6.3 Reference …………………………………………………………………………….33

Chapter 1
INTRODUCTION

1.1 Introduction

Criminal liability is imposed on conduct felt to be against the general interests, of society. Obviously if millions of people have to live together, their lives will be more pleasant and peaceful if some measures are taken to prevent people from killing or physically attacking others, walking into their houses and taking things away, or smashing up someone' else's car. Most of us would agree that these types of behaviour are anti-social, and we want them to be controlled. But there is not always agreement on what kinds of conduct should be considered criminal. Eating smelly fast food on public transport, or wearing too much perfume or aftershave. Yet none of these constitute a crime, and very few people would wish them to be. On the other hand, there are types of behaviour, which may affect nobody, but the people involved - smoking cannabis and failing to wear a seat-belt are examples - which are nevertheless criminal acts.

And at any stage in a society, there will be some kinds of behavior about which there is dispute - at the moment, for example, smoking cannabis is a crime and some people argue that it should not be, while abortion (within certain rules) is not a crime, and some believe- it should be. It is important therefore to realise that there is no absolute definition o: criminal behaviour- 'criminal' is no more than a label attached to different types of behaviour at different times in different societies[1].

1.2 Objectives of the Study

The main goal of this study is The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions. The objective of this research paper is as follows-

- To find out the causes for Causes of Delay?
- To explore the laws to in The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions?
- To find out the legal in The Lower Successibility Rate of Criminal Cases in Bangladesh: A Critical Analysis with Problem Solutions.
- To find out the solution to overcome the current situation

---

[1] Regan Dey, *'Impact of Human Genetics on Criminal Behavior and Criminal Justice System'*, *Journal of Law*, vol. I, no. 1 (Jun. 2003), p.3.

1.3 Literature Review

The issue of delayed disposal of criminal cases in Bangladesh has been a topic of concern for scholars, legal practitioners, and policymakers. This literature review synthesizes key findings from various studies and reports on the factors contributing to these delays.

1. Judicial Infrastructure

Research indicates that the lack of adequate judicial infrastructure is a significant contributor to delays. Hossain (2016) highlights that the shortage of courtrooms and inadequate facilities often leads to congested schedules and limited access to justice. This infrastructure deficit hampers the timely hearing of cases.

2. Judicial Personnel Shortages

Several studies emphasize the correlation between the shortage of judges and case backlogs. According to Rahman (2018), the ratio of judges to population in Bangladesh is alarmingly low compared to international standards, resulting in prolonged wait times for cases to be heard.

3. Case Management Issues

Ineffective case management practices are frequently cited as a major cause of delays. Ahmed (2017) discusses the absence of proper case tracking systems, which leads to inefficiencies in scheduling and hearing cases. The lack of organized management exacerbates the existing backlog.

4. Bureaucratic Processes

Bureaucratic hurdles within the legal framework have been shown to slow down the process significantly. A study by Sultana (2019) identifies excessive paperwork and procedural requirements as obstacles to swift justice. These inefficiencies lead to prolonged case durations and frustrate litigants.

5. Investigative Delays

Delays in police investigations are another critical factor impacting case timelines. According to a report by the Bangladesh Institute of Law and International Affairs (BILIA, 2020), lengthy investigation processes and inadequate police resources often prevent timely case resolutions.

6. Adjournments and Hearings

Frequent adjournments requested by either party contribute to delays. Islam (2021) points out that tactical delays, such as the unavailability of witnesses or lawyers, often result in rescheduled hearings, which prolongs the case lifecycle.

7. Lack of Legal Aid

The absence of accessible legal aid services hinders timely case resolution, particularly for marginalized groups. Rahman (2020) notes that without proper legal representation, vulnerable populations face significant barriers, resulting in prolonged case durations. 8. Corruption and Malpractice

Corruption within the judicial system can lead to delays as parties may engage in bribery or manipulation to influence outcomes. Khan (2019) discusses how corrupt practices undermine the integrity of the judicial process, leading to further delays.

9. Social and Cultural Factors

Societal issues, including witness intimidation and fear of retribution, play a role in delaying cases. A study by Parveen (2021) highlights that social dynamics often prevent witnesses from coming forward, impacting case proceedings.

1.4 Research Questions

- What is a Causes of Delay?
- What is a in The Lower Successibility Rate of Criminal Cases in Bangladesh?
- A Critical Analysis with Problem Solutions?

1.5 Definition

A range of words is used to represent shades of intention in the various criminal laws around the world. The most serious critique of murder, for example traditionally expressed the *mens rea* clement as malice aforethought, and the interpretations of malice, maliciously and willfully vary between pure intention and reckless depending of the state and the seriousness of the offence.

A Person intends a consequence when he or she foresees that it will happen if the given series of acts or omissions continue and desires it to happen. The most serious level of culpability, justifying the most serious levels of punishment, will be achieved when both these components are actually present in the accused's mind (a "subjective" test). A person who plans and executes a crime is considered, rightly or wrongly. A more serious danger to the public than one who acts spontaneously, whether out of the sudden opportunity to steal, or out of anger to injure another.[2]

---

[2] Bernard and Jeffrey B. Snipes, *Theoretical Criminology*, 5th ed. (New York: Oxford University Press, 2002), p.31.

1.6 The test of intention

The policy issue for those who administer the criminal justice system is that, when planning their actions, people may be aware of many probable and possible consequences. Obviously, all of these consequences could be prevented through the simple expedient either of ceasing the given activity or of taking action rather than refraining from action. So the decision to continue with the current plan means that all the foreseen consequences are to some extent intentional, i.e. within and not against the scope of each person's intention. But, is the test of culpability based on purely a subjective measure of what is in a person's mind, or does a court measure the degree of fault by using objective tools?

For example, suppose that A, a wife, discovers that her husband is having a sexual affair with B. Wishing only to drive B away from the neighborhoods, she goes to B's house one night, pours petrol on and sets fire to the front door. B dies in the resulting fire. A is shocked and horrified. It did not occur to her that B might be physically in danger and there was no conscious plan in her mind to injure B when the fire began. But when A-s behaviour is analysed, B's death must be intentional. If A had genuinely wished to avoid any possibility of injury to B, she would not have started the fire. Or, if verbally warning B to leave was not an option, she should have waited until B was seen to leave the house before stalling the as it was, she netted until night when it was more likely that B would be at home and there would be fewer people around to raise the alarm.[3]

On a purely subjective basis, A intended to render B's house uninhabitable, so a reasonably substantial fire was required. For the most part this rules has been abolished and direct evidence of the required mental components is required: Thus, the courts of most states use a hybrid test of intention, combining both subjective elements objective elements, for each offence changed.[4]

In English law, Section: 8 of The Criminal Justice Act 1967 provides a statuary framework within which *mens rea* is assessed. It states[5]:

A court or jury, in determining whether a person has committed an offence, (a) shall not be bound in law to infer that he intended or foresaw a result of his actions by reasons only of its being a natural and probable consequence of those actions;-but-1

(b) shall decide whether he did intend or foresee that result by reference to-all the evidence, drawing such inferences from the evidence as appear proper in the circumstances.

[3] *Ibid*

[4] *Ibid*

[5] The Criminal Justice Act 1967

Under Section: 8(b) therefore, the jury is allowed a wide latitude in applying a hybrid test to impute intention or foresight (for the purposes of recklessness) on the basis of all the evidence. See Intention in English law.

Chapter 2

STATISTICS OF CRIME IN BANGLADESH

2.1 How Much Crime is there?

Official statistics on crime are published annually in the UK, and provide two main kinds of information: the number of crimes committed, as a whole and by type of crime; and certain characteristics, such as age and sex, of convicted offenders. The figures tend to be reported in the media under headlines such as 'Violent crime up 10 per cent', or 'Burglaries reduced by 25 per cent'. However, since the 1960s, increasing doubt has been shed on this interpretation of official statistics. We now know that when official figures say that, for example, burglaries are down by 25 per cent, it docs not necessarily mean that there have been 25 per cent fewer burglaries than the year before. This is because these statistics do not measure the crime that has taken place, but the crimes that have been officially recorded, and they may be two very different things. The reason for this is that before a crime can be recorded, a series of processes must occur: a person (the victim, the police, or someone else) must be aware that it has happened; if the police have not discovered it, someone must report it; and the police must accept that the law has been broken. Each stage has implications as to whether the incident appears in the official statistics or not.[6]

2.2 Awareness of crime

While in the case of crimes such as burglary or theft it will be clear to the victim that a crime has been committed, many offences do not have an obvious victim. For example, tax evasion victimises the whole community, because if dishonest people avoid paying their fair share, the rest of us have to pay more, but we are

[6] Measuring Crime: How Much Crime is There? (https://www.csudh.edu/dearhabermas/crimlect07.htm), p. 1

not likely to be aware of it happening. Unless the police, or other enforcement agencies, discover such crimes, nobody but the criminals will know that they have taken place.

Whether the police discover a crime depends heavily on where police officers are actually placed. Areas where police believe that crime is likely to occur are allocated higher policing levels, so crime is more likely to be discovered there, and presumably less likely to be discovered in areas not seen as likely to produce crime. Styles of policing may also play a part in this, as the sociologists Lea and Young point out in their book ‗What is to be Done About Law and Order?' What Lea and Young describe as 'consensual', with officers seeing themselves as supporting the community in upholding the law. In cities, they see themselves as controlling the community, and preventing it from breaking the law. Lea and Young suggest that people are more likely to be stopped and searched in the second type of area, and thus more likely to be discovered if they do commit crime.[7]

2.3 Reporting crime

Numerous studies have shown that the majority of crimes, which take place, are not reported to the police. Victimisation surveys ask respondents whether they have been the victims of crime over the previous year, whether they have reported it, and whether the police recorded it. The best known is the Home Office British Crime Survey, which takes place every couple of years. It regularly reveals a huge number of crimes, which have not been reported to the police. The 2000 survey uncovered almost 15 million crimes, three times the official figure of 5.3 million. In addition, rates of reporting varied widely between different types of offence. Clearly this throws doubt on the official picture of which types of crime are committed most frequently; not only are the numbers wrong, but also the proportions.

What influences the decision to report? According to the British Crime Survey, the main reasons for not reporting are that the victim saw the offence as

[7] *Ibid*

trivial, and/or believed that the police would not be able to do anything about it. People also tend to report crimes where there is an obvious advantage to them in doing so. 98 per cent of car thefts are reported, presumably because that is necessary in order to make' an insurance claim. Other factors which the survey has highlighted are that some crimes are regarded as personal matters, to be sorted out between the individuals; victims may want to protect the offender, particularly in crimes such as child abuse or domestic violence; and victims may be too embarrassed to report to police, especially where the offence is of a sexual nature.[8]

Kinscy, Lea and Young in Losing the Fight Against Crime provide additional reasons why crime may go unreported, and therefore unrecorded in official statistics. They argue that inner-city communities have little faith in the police, and this expresses itself in two ways: residents believe the police are biased against them, so they also fear reprisals from criminals, against which the police will not be able to protect them. Another victimisation-study, the Merseysidc Crime Survey, has shown that the higher the crime in an area, the lower the willingness to report.

However, even victimisation studies probably underestimate the true amount of crime committed. They can only record certain types of crime - those with an obvious victim. They therefore do not include drugs offences, prostitution, tax, and corporate or white-collar crime. Sexual offences are also likely to be underreported; although victims may be more likely to report these in the confidentiality of such.

Finger 1 Reporting rates based on 2002/03 British Crime Survey Interviews, surveys than they are logo to the police, many will still be too embarrassed to admit to them, especially as there may seem to be no practical point in doing so. Victimisation surveys also rely on victims' memories, and their ability to define an act as a crime. Minor criminal acts may be forgotten, not regarded as serious enough to record, or not seen as crime.

8

Ibid

2.4 Recording crime

Even where a crime is reported to (or discovered by) the police, it will not necessarily end up being recorded by them. Sociologists have suggested that whether the police perceive an individual's behaviour as a crime may depend on how they label the offender. An American study by Chamblis looked at two teenage groups, one working-class (known as the 'roughnecks') and one middleclass (the 'saints'). Despite the fact that the 'saints' committed more, and more serious, delinquent acts, they did not conform to the police image of young criminals, and were able to present their activities as harmless pranks. Whilst they were questioned, they were never charged, and therefore their activities were not recorded as crimes.

The proportions of different types of crime recorded in official statistics may be distorted by the fact that some acts potentially fall within the definitions of more than one crime - different types of assault, for example. Which crime is recorded may depend on police discretion. In addition, different forces may have different attitudes to types of crime, reflecting the priorities of their senior officers. If the result is that forces concentrate resources on some crimes at the expense of others, this may make it appear that certain crimes are rising by comparison with others, when in fact they may simply be more likely to be detected.[9]

2.5 White-collar and corporate crime

White-collar crime is the name given to criminal activities performed by those in fairly high-status occupations during the course of their work-fraud is the obvious example. Corporate crime is that committed by companies. Fraud also tends to be the area most associated with corporate crime, but some sociologists have argued that deaths and injuries caused by companies to employees or customers also often amount to crimes.

Neither white-collar nor corporate crimes are adequately reflected in official statistics, for two main reasons. First, there is low awareness of the fact that they

Ibid

9

Ibid

have been committed. Many such offences victimise the community as a whole, or large groups of consumers. Where a company breaks safety legislation and an employee dies or is injured as a result, the situation is often viewed as accidental, so although the company may be sued fur compensation, criminal charges are rarely brought. In cases of bribery and corruption, both parties may benefit, and both are liable to prosecution, so neither is likely to report the offence.

Secondly, these crimes are frequently investigated not by the police, but by regulatory authorities such as the Health and Safety Executive, who, as a matter of policy, rely on persuasion rather than prosecution; the number of companies who need 'persuading' to stop breaking the law is not recorded in the criminal statistics.[7]

2.6 Statistics and conclusions

These weaknesses of official statistics make them unreliable not only as a picture of current crime rates, but also for the purposes of comparison - which is a problem, given the huge media attention paid to such comparisons, and its influence on policy. For example, rape figures have risen since the early 1980s, but the figures themselves cannot show whether this means more rapes are being committed or more are being reported, perhaps as a result of more sensitive police treatment c: victims. In addition, methods of gathering and/or categorising statistics may vary over time. Consequently, it is difficult to draw reliable conclusions from cither apparent increases or decreases in the crime rate. A rise, for example, in the official crime statistics is usually seen as bad news. Yet it may not reflect more crimes commit led, but more crimes reported, which may in turn be a result of higher public confidence in the police, and/or less tolerance by victims and others of crimes such as marital rape, child abuse or domestic violence.

Similar problems can be seen in the picture painted by the official statistics of offenders. They suggest that most crime is committed by young, working-class males, and that black people are more heavily represented than might he expected

[7] Criminology Class, Fall 1999, (https://www.csudh.edu/dearhabermas/crimlect07.htm), p. 1

from the proportion of the population that they make up. Many important theories of criminology have been based on these findings, with experts accepting that working-class men are the main offenders, and then setting out to explain what it was about these men that made them likely to commit crime.

However, in recent years, other criminologists, known as 'labelling theorists', have questioned these assumptions, asking whether it is in fact the case that some sections of society appear more frequently in the crime figures because they are more likely to be convicted, and not because they commit more crime. As we have seen, the offenders who appear in official statistics are likely to be a small proportion of actual offenders, given the amount of crime, which is not reported or recorded.

As Chambliss's research shows, some groups are more likely to appear in official statistics because of who they are, not what they have done. If young, working-class men are most likely to be stopped by police, or do have their activities defined is criminal; it is not surprising that this is rejected in the official statistics. Lea and Young have suggested that the police may also be more likely to stop and question black people, with the same result.

It has been argued that police behaviour to these two groups reflects the fact that they actually do commit more crime, but, even if this is the case, it ignores the fact that, in concentrating on some groups, the behaviour of others is not recorded, and so the balance presented in statistics is distorted. In other words, the targeted groups may commit more crime - but not as much more as statistics suggest. The same applies to the absence of white-collar and corporate crime in official statistics. Box's study of these areas suggests that if the true picture of criminal activity were revealed, the assumption that crime is, working-class activity would soon be overturned.

A further problem with official statistics is that they aim to present a picture of crime as a whole, which may ignore the reality of crime statistics for some groups or geographical areas. For example, the Islington Crime Survey (1986) found that residents of that borough had much higher than average chances of being a victim of certain serious crimes. Women were 40 per cent more likely to suffer nonsexual assault and rates of sexual assault were 14 times the national average. This was oven though women were five times more likely than men to avoid going out alone after dark, and six times more likely to avoid going out alone. Burglary in the borough was five times the national average. Clearly this suggests that the national average rotes underestimate the effects of crime in such areas and, by implication, overestimate its effects in other districts.

Similarly, the British Crime Survey reveals that many apparently separate instances of crime may involve the same victims over and over again; this is known as repeat victimisation. Regarding burglary, for example, the 2000 British Crime Survey found that 13 per cent of households suffering burglaries had done so twice in the year, and 7 per cent had been burgled three or more times. Highcrime may not contain more victims, but a similar number to other places, who are victimised more often. Again, this is not reflected in the official statistics, but since these figures are used to help make decisions on policy and allocation of resources, such variations are important.

It seems clear that official statistics are not - and should not be regarded as - reliable, at least not in the role they are designed to perform. They may be very revealing about the assumptions used in defining crime, by police and others, but as a picture of how much crime is committed and by whom, they are seriously flawed.

Chapter 3

NATURE OF CRIMINAL LAW

3.1 Nature of criminal law

The term criminal law, sometimes called penal law, refers to any of various bodies of rules in different jurisdictions whose common characteristic is the potential for unique and often severe impositions as punishment for failure to comply. Criminal punishment depending on the offense and jurisdiction may include execution, loss of liberty, government supervision (parole or 'probation), or fines. There are some archetypal crimes, like murder, but the acts that are forbidden are not wholly consistent between different criminal codes, and even within a particular code lines may be blurred as civil infractions may give rise also to criminal consequences. Criminal law typically is enforced by the government, unlike the civil law, which may be enforced by private parties.[8]

3.2 Elements of Crime:

Actus reum

The *actus reus* — sometimes called the external element of a crime — is the Latin term for the "guilty act" which, when proved beyond a reasonable doubt in combination with the *mens rea*, i.e., the "guilty mind", produces criminal liability in common law-based criminal law jurisdictions Canada, Australia, New Zealand, England, Scotland and the United States. In the United States, some crimes also require proof of an attendant circumstance.

Causation

Causation is the bringing about of a result, and in law it is at segment in various for legal liability. Most tests for legal liability in criminal and civil Jaw require the defendant to have 'caused' the result of which the plaintiff complains. For example:

- Homicide (criminal law): requires that the accused have caused the victim's death
- Negligence (civil law): requires that the defendant have caused the harm that befell the plaintiff
- Breach of contract (civil law): requires that the defendant's breach have caused the plaintiffs loss.

---

[8] Tehrani and Mednick, *Genetic Factors and Criminal Behavior*, (London: Federal Probation, 2000), p.24.

If the plaintiff prosecution cannot establish the causal link between the defendant's act and the plaintiff s/victim's harm, then liability will not be established.

If the plaintiff/ Prosecution cannot establish the causal link between the defined act and the plaintiff�much s/victim harm, then liability will not be established.

This has two applications:

1. When a person is planning to achieve a given consequence, there may be several intermediate steps that have to be taken before the full result as desired is achieved. It is not open to the accused to pick and choose which of these steps are or are not intended. The accused will be taken to intend the accomplishment of all outcomes necessary to the fulfillment of the overall plan. For example, if A wishes to claim on B's life insurance policy so shoots at B who is sitting in a bus, the bullet may have to pass through a window. Thus, even though A may not have desired B's death, it was an inevitable precondition to a claim. Similarly, he may never consciously have considered the damage to the window, but both the murder and the damage under the Criminal Damage Act 1971 will be intended. This is distinguishing between the direct intention which is the main aim of the plan, and the oblique intention which covers all the intermediate .steps. More generally, a person directly intends a consequence when his purpose or aim is to cause it even though he believes that the likelihood of it succeeding is remote. In R v Dadson, for example, the defendant shot at a man whom he wrongly believed to be out of range. In R. v Mohan (1975) 2 All ER 193 it was held that direct intention means, "aim or purpose" "a decision to bring about, insofar as it lies within the accused's power, the commission of the offence., no matter whether the accused desired that consequence of his act or not".[9]

[9] R. v Mohan (1975) 2 All ER 193

2. Sometimes, by accident, a plan miscarries and the accused achieves one or more unintended consequences. In this situation, the accused is taken to have intended all of the additional consequences that flow naturally from the original plan. This is tested as matters of causation and concurrence, i.e. whether the given consequences were reasonably foreseeable, there is no *novus actus interveniens* and the relevant *mens rea* elements were formed before all of *thecrctes reuscomponents* were completed.

Recklessness (criminal)

In the criminal law recklessness (sometimes also termed willful blindness which may have a different meaning in the united states is one of the four possible classes of mental state constituting *mens rea*. To commit an offence of ordinary as opposed to strict liability the prosecution must be able to prove both a *mens rea* and an *actus reu* i.e., a person cannot be guilty for thoughts alone. There must also be an appropriate intention, knowledge, recklessness, or criminal negligence at the relevant time (see concurrence); Recklessness may constitute an offense against property or involve significant danger to another person.

Criminal law recognizes recklessness as one of the *mens rea* elements to establish liability. It shows less culpability than intention, but more culpability than criminal negligence. The test of any *mens rea*, element is always based on an assessment of whether the accused had foresight of the prohibited consequences and desired to cause those consequences to occur.[10] The three types of test are:

1. Subjective where the court attempts to establish what the accused was actually thinking at the time the *actus reus* was caused;
2. Objective where the court imputes *mens rea* elements on the basis that a reasonable person with the same general knowledge and abilities as the accused would have had those elements, although R v Gemmell and Richards deprecated this in the UK; or

---

[10] Jay Joseph, ‗Is Crime in the Genes, A Critical Review of Twins and Adoption Studies of criminality and antisocial behavior', *The Journal of Mind and Behaviour,* vol. 22, (Dec.2001),

3. Hybrid, i.e. the test is both subjective and objective.

The most culpable *mens rea* elements will have both foresight and desire on a subjective basis. Recklessness usually arises when an accused is actually aware of the potentially adverse consequences to the planned actions, but has gone ahead anyway, exposing a particular individual or unknown victim to the risk of suffering the foreseen harm but not actually desiring that the victim be hurt. The accused is a social danger because he or she is gambling with the safety of others and the fact that the accused might have taken some steps to try to avoid the injury from occurring is relevant only to mitigate the sentence. Note that gross, criminal negligence represents such a serious failure to foresee that in any other person, it would have been recklessness. Hence, the alternative phrase "willful blindness" acknowledges the link representing either that the accused deliberately engineered a situation in which he or she was ignorant of material facts, or that the failure to foresee represented such a danger to others that it must be treated as though it was reckless.

3.3 General Discussion

To constitute a crime, there must be an *actus reus*[14] accompanied by the *mens rea*: Negligence shows the least level of culpability, intention being the most serious and recklessness of intermediate seriousness, overlapping with gross negligence. The distinction between recklessness and. criminal negligence lies in the presence or absence of foresight as to the prohibited consequences. Recklessness is usually described as a 'malfeasance' where the defendant knowingly exposes another to

p. 179.

[14] Latin for: "guilty act"

the risk of injury. The fault lies in being willing to run the risk. But criminal negligence is a 'misfeasance or 'nonfeasance1 (see omission), where the fault lies in the failure to foresee and so allow otherwise avoidable dangers to manifest. In some cases this failure can rise to the level of willful blindness where the individual intentionally avoids adverting to the reality of a situation (note that in the United

States, there may sometimes be a slightly different interpretation for willful blindness). The degree of culpability is determined by applying a reasonable person standard. Criminal negligence becomes "gross" when the failure to foresee involves a "wanton disregard for human life".[11]

The test of any *mens rea* element is always based on an assessment of whether the accused had foresight of the prohibited consequences and desired to cause those consequences to occur. The three types of test are:

1. Subjective where the court attempts to establish what the accused was actually thinking at the time the *actus reus* was caused;
2. Objective where the-court imputes *mens rea* elements on the basis that reasonable person with the same genera] knowledge and. abilities as the accused would have had those elements; or
3. Hybrid, i.e. the test is both subjective and objective.

The most culpable *mens rea* elements will have both foresight and desire on a subjective basis. Negligence arises when, on a subjective test, an accused has not actually foreseen the potentially adverse consequences to the planned actions, and has gone ahead, exposing a particular individual or unknown victim to the risk of suffering injury or loss. The accused is a social Ganger because he or she has endangered the safety of others in circumstances where the reasonable person would have foreseen the injury and taken preventive measures. Hence, the test is hybrid.

It is generally said that criminal law is an index of civilisation because it is sensitive to the changes in social structure and reflects mental fiber of a given society. This is why Prof. Friedman calls it a barometer of moral thinking.

According to Wechster, "crime is a formal social condemnation of forbidden conduct buttressed by sanction calculated to prevent it‖. Criminologists are thus confronted with three major problems, namely,

1. What conducts should be forbidden and an inquiry into the effect of environment on these conducts;

[11] The Discussion in Corporate Manslaughter'

2. What condemnation is appropriate in such cases; and
3. What kinds of sanctions are best to prevent these conducts?

It is thus evident that criminology, penology and criminal law are inter-related and one cannot really function without the other. The formulation of criminal policy essentially depends on crime causation and factors correlated therewith while its implementation is achieved through the instrumentality of criminal law. It has been rightly observed by Prof. Sellin that the object of criminology is to study the sequence of law-making, law-breaking and reaction to law breaking from the point of view of the efficacy of law as a method of control. According to Donald Taft, criminology is the scientific analysis and observation of crimes and criminals whereas penology is concerned with the punishment and treatment of offenders.[12] In his view,' the development of criminology has been much later than that of penology because in early periods the emphasis was on treatment of Criminal rather than scientific investigation into the causation of crime.

3.4 Criminal Law — Its Nature and Elements:

The importance of criminal law in relation to crime need hardly be emphasised. Dr. Allen has defined law as something more than a mere command. He observed: `it is the force of public opinion which attempts to enforce, as far as possible, good morals for the benefit of the society and its members". Marett views law as the authoritative regulation of social relation. It, therefore, follows that law is a relative term and pervasive in nature. In other words, it is a varying concept, which changes from society to society and time to time. The divergence between the Hindu and Mohammedan personal law of marriage, divorce, succession, legitimacy and legislation on prohibition, abortion, 1 COFEPOSA, 2 etc., can be cited in support of this contention. Thus, the criminal law of a place can be defined as the body of special rules regulating human conduct promulgated by State' and uniformly applicable to all classes to which it refers and is enforced by punishment, It should,

[12] *Ibid*

however, be noted that law is simply a means to an end and should not be treated as an end in itself. Its ultimate object is to secure maximum good of the community.

In order to be effective, criminal law must have four important elements viz., (i) politically, (ii) specificity, (iii) uniformity, and (iv) penal sanction. Polytonality implies that only the violation of rules made by the State are regarded as crime. Specificity of criminal law connotes that it strictly defines the act to be treated as crime. In other words, the provisions of criminal law should be stated in specific terms. Uniformity of criminal law suggests its uniform application throughout the country' without any discrimination, thus imparting even-handed justice to all alike. The purpose is to eliminate judicial discretion in the administration of criminal law. It must, however, be noted that recent legislations are providing scope for more and more judicial discretion through -judicial equity to attain offender's reformation which is 'the ultimate goal of criminal justice. Finally, it is through penal sanctions imposed under the criminal law that the members of society .are deterred from committing crime. No law can possibly be effective without adequate penal sanctions.

Chapter 4

CRIMINAL JUSTICE IN INTERNATIONAL PROSPECTS

4.1 Criminal Justice System in India

The Criminal Justice System in India has many loop holes. With my last assignment with Human Rights Law Network (HRLN) on Prisoner‘s Rights I came to know about several problems existing in the system. I witnessed so many cases where for petty crimes people are in jails for more than 3, 4 years. Many undertrials are detained because they have no money to get a bail or hire a lawyer to assist them. If he is unable to furnish surety, he cannot get bail and spends years in a prison. Quite often, the surety amount asked by the court is large that the poor cannot furnish it as a result he goes to the prison. And the speed of justice delivery system has given rise in Prison population which resulted in overcrowding. [13] Criminal Law of India is a replica of colonial times. It is hostile to the poor and the weaker sections of society. The law still serves and protects the needs of the haves and ignores the have-nots. Such biasness has resulted in rich people escaping law and the jail is more often full of the unprivileged class of society. The hierarchy of courts and with appeals after appeal have led to a situation where the poor cannot reach the temple of justice due to heavy cost of its access. In other words one can state that granting justice at a higher cost indirectly means the denial of justice. Such circumstances lead to a clear violation of the Supreme Court judgement which held, legal aid to a poor is a constitutional mandate not only by virtue of Article 39A but also Articles 14, 19, 21 which cannot be denied by the government.

When we think about prisons the image that comes to our mind is that of hard core criminals who were imprisoned for committing crimes. But in actual fact 64.7% of prisoners in Indian jails are undertrials who may or may not be punished. Thousands of them, arrested on suspicion of committing petty crimes, languish in jails for a much longer period than the maximum punishment under the law for the crime which they have committed. The presence of higher number of undertrials in the prison results in their over-crowding, which in turn causes many socio economic problems in the society.

As understood by a layman an, 'undertrial'is a person who is currently on trial or who is imprisoned on remand whilst awaiting trial. As defined in the Oxford Dictionary, ‗A person who is on a trial in a court of law'. The 78th Report of Law Commission also includes a person who is in judicial custody on remand during investigation in the definition of an 'undertrial'.

The presence of large number of undertrial prisoners and their continuing stay for longer period definitely indicates the slow pace of trials which will leads to the overcrowding of prisons. In the National Human Rights Commissions view,

[13] Rayees Rasool, Criminal Justice System In India, Countercurrents.org, 05 June, 2015

unnecessary and unjustified arrests made by the police and the slow judicial processes causing congestion of undertrial prisoners are the main causes of overcrowding in jails.

The poor are particularly worse off when confronted with criminal justice system.

When prison population goes beyond its authorized capacity of accommodation, it is known as Over-crowding. Overcrowding in the Prisons is an important human rights issue as it results in deterioration of the general living conditions of the prisoners. It also creates hindrances in the reformation process. Prison officers find it difficult to initiate and continue correctional measures. Overcrowding contributes to a greater risk of disease, higher noise levels, which affect the health of the prisoners, and adversely affect the hygienic conditions, surveillance difficulties, which increase the danger level. This apart, life is more difficult for inmates and work is more onerous for staff when prisoners are in over capacity.

The system of imprisonment has originated in the first quarter of the 19th century. In the initial stages the prisons were used as a place for detention of the undertrials. It has undergone a radical change and the penology of the present day has become centered on imprisonment as a measure of rehabilitation of the criminals. But unfortunately even now the prisons are crowded with under-trial prisoners. Many of them are innocent persons who are caught in the web of the law eagerly waiting for their trial date and several of them are prepared to confess their crime and accept their sentence

There is a law where undertrials can get justice but the implementation is an issue. In one of the study the data compiled by the National Crime Records Bureau (NCRB) at the end of 2013, the total number of convict prisoners was 1,29,608 and under-trial prisoners was 2,78,503 in jails of the country, there were 1,92,202 Hindu, 57,936 Muslim, 11,666 Sikh, 12,406 Christian, 4,293 Other under-trial prisoners in jails at the end of 2013. In terms of societal strata there were 59,326 Scheduled Caste, 31,581 Scheduled Tribe, 87,848 OBC and 99,748 Other under-trial prisoners at the end of 2013.

Supreme Court of India in its order dated 5.9.2014 in Writ Petition No. 310/2005 – Bhim Singh Vs Union of India & Others relating to under-trial prisoners, has directed for effective implementation of Section 436A of the Code of Criminal Procedure by directing the jurisdictional Magistrate/Chief Judicial Magistrate/Sessions Judge to hold one sitting in a week in each jail/prison for two months commencing from 1st October, 2014 for the purposes of effective implementation of section 436A of the Code of Criminal Procedure. In its sittings in jail, the above judicial officers shall identify the under-trial prisoners who have completed half period of the maximum period or maximum period of Imprisonment provided for the said offence under the law and after complying with the procedure prescribed under Section 436A pass an appropriate order in jail itself for release of such under-trial prisoners who fulfill the requirement of section 436A of Cr PC.

One of the serious concerns for these undertrials is their family. In the absence of the main breadwinner, many families are forced into destitution. This combined with the social stigma and ostracism that they face, leads to circumstances propelling children towards delinquency and exploitation by others. It is a vicious circle. The problems become acute when they belong to the socio-economically marginalized and exploited sections of the society. One of the horrible plights a person can undergo is spending years in a jail as undertrials and at the end he was found not guilty. In such a situation can anyone compensate them for the mental agony and torture they and their family have suffered or give back to them the lost years, the loss of honour and reputation. The undertrials should not be kept in the jails as far as possible. If unavoidable then they should be kept separately with in the prison so that they are not allowed to mix with the convicts. Within the undertrials also a classification should be made so that the first and young offenders should be kept away from the hard core criminals thereby preventing contamination.

There are hundreds of examples where court acquitted people from criminal charges after spending more than 10 years in Jail. There are no proper policies for their rehabilitation. No one can compensate them the time they spent and the things they lose during the period. But to respect their human rights govern-ments should form a policy to adequately rehabilitate them.

In order to mitigate the conditions of the undertrial prisoners the first and foremost thing that has to do is to bring down their population drastically. This cannot happen unless all the branches of the criminal jus-tice system work hand in hand. The presence of large number of undertrial prisoners is really shame to any criminal justice administration .For this we have to take these undertrials out of the prison or not to keep them for a long period as well as not to sent more undertrials to the prison.[14]

4.2 Intro to the American Criminal Justice System

Unlike in most countries, the United States criminal justice system is not represented by a single, all-encompassing institution. Rather, it is a network of criminal justice systems at the federal, state, and special jurisdictional levels like military courts and territorial courts. Criminal laws at these levels vary, although these are all based on the US Constitution.

The federal criminal justice system handles cases that are national in scope: treason, espionage, assassination of top-level government officials, among others. Meanwhile, state criminal justice systems handle crimes that have taken place or, in certain situations, have evident involvement in the state. The same process goes for the criminal justice systems within special jurisdictions.

4.3 Components of the Criminal Justice System

As with any mechanism, the criminal justice system involves the coordinated functioning of its distinct parts. The ideal result is making offenders pay for, and repent, their criminal acts while delivering recompense to the victims. The three components of the criminal justice system are:

---

[14] Rayees Rasool is Project Coordinator, Criminal Justice Initiative , Human Rights Law Network, New Delhi

4.4 Law Enforcement

The wheels of law enforcement start grinding when a crime is detected. Detection takes place when the concerned law enforcement body (police force or specialized agency) receive a report from the victim or a witness, or catch the crime perpetrator. Thereafter, the law enforcers verify the information furnished and proceed with the investigation.

Law enforcement duties include: arresting suspected offenders, gathering and preserving evidence, establishing the motive, and completing police/arrest reports by stating results of the investigation. Responsibilities include: upholding the rights of offenders, victims, and witnesses; and conducting police procedures within rules prescribed by law.

At the federal level, there is a law enforcement body designated to cover particular areas of criminal law. One example would be the US Department of Homeland Security, which addresses the problem on human trafficking. Another would be the US Department of Justice (DOJ), which is made up of agencies like the FBI that has police powers over crimes of significant nationwide impact like terrorist acts.

Meanwhile, state and other local-government police organizations vary in structure, as well as in names. However, the mission is the same as the others': to enforce laws, maintain peace and order in the communities they serve, and provide their constituencies safety and security.

4.5 Adjudication

The adjudication of a criminal case involves court processes. In plain terms, adjudication refers to the legal process by which a judgment is pronounced by the court to the parties in a case. As with the law enforcement component of the criminal justice system, the courts are organized at federal, state, and specialjurisdiction levels.

Pretrial services-

The adjudication process starts when the law enforcement body has submitted the police/arrest report to the prosecutor. The prosecutor, in turn, determines whether or not the incident will prosper into a criminal case, in which the suspected offender will be charged with the crime. It is not uncommon for the prosecutor to drop or dismiss charges altogether, for reasons that include: lack of evidence and weak police investigation. It is the prosecutor that takes the side of the victim and, accordingly, the state (society or community), which the crime has also affected.

Arraignment-

If the prosecutor decides to press charges against a suspected offender, the adjudication process advances to arraignment. During arraignment, the suspect is read the charge/s filed against him or her. With the aid of a legal counsel, the suspect (now a defendant) enters a plea of either guilty or not guilty.

Trial-

The arraignment progresses into trial to determine the guilt of the suspect (if the not-guilty plea was not entered). In the event of a guilty verdict, the offender is convicted and the court will determine the sentence.

A trial is characterized by an argument that has two sides: the prosecution and the defense. On the one hand, the prosecution represents the interests of the victim and , in effect, the society (or state) that the offender is suspected to have violated. On the other, the defense asserts the innocence of the offender and labors to get the offender acquitted.

A trial often results in an appeal, in which the disadvantaged side (prosecution or defense) will try to shift the advantage. In this instance, the case is elevated in a higher court, which either upholds or overturns the earlier decision.

Sentencing-

A court conviction corresponds to a sentence, which is the penalty imposed on the offender who has been found guilty as a result of the preceding trial. The sentence is meted out by the judge, who follows prescribed guidelines, standards, and limitations in punishing convicts.

Death Penalty-

Generally, United States laws permit the death penalty for convicts who have committed heinous crimes, although the practice of capital punishment is on a case-by-case basis.

In principle, the Federal Death Penalty Act of 1988 [15] sentences to death all offenders convicted of homicide. But in practice, capital punishment is more an exception than the rule. For example, most of the convicted terrorists on death row have yet to be meted out their sentences.

4.6 Corrections

The third component of the criminal justice system is corrections. While it implies reform and rehabilitation, corrections encompasses all sentenced offenders, including those who are on death row.

Federal and state criminal justice systems hold ―corrections‖ as the replacement for ―penology‖ that many find harsh and unforgiving. In any case, the corrections component manages incarcerated convicts and those who are conditionally released, as well as those who are merely slapped with punishments that do not require imprisonment but who need supervision anyway.

The corrections network includes publicly run and privately operated institutions, along with the personnel and other stakeholders, and its administration must adhere to lawful standards. The process involves reform and rehabilitation programs to

[15] [http://www.deathpenalty.org/article.php?id=46, Last visit 11.06.2016]

prepare eligible convicts for reentry and reintegration into society as free individuals.

Chapter 5

CRIMINAL JUDICATURE IN BANGLADESH

5.1 Criminal Courts

The criminal law of Bangladesh makes due allowance for existence of courts of special jurisdiction and establishes various types of criminal courts across Bangladesh subordinate to the SC. The Code of criminal Procedure (CrPC) 1898 is the legal bases of the criminal courts in Bangladesh. S.6 of this code lays down that besides the SC and the courts constituted under any law for the time being in force, other than this code, there shall be two classes of criminal courts in Bangladesh:

Supreme Court and

Judge Court

5.2 Classes of Criminal Courts

There shall be two classes of Criminal Courts in Bangladesh, namely:-

(a) Courts of Sessions; and

(b) Courts of [Magistrates].

(2) There shall be two classes of Magistrate, namely: – (a) Judicial Magistrate and (b) Executive Magistrate.

(3) There shall be four classes of judicial Magistrate, namely: –

(a) Chief Metropolitan Magistrate in Metropolitan Area and Chief judicial Magistrate to other areas;

(b) Magistrate of the first class, who shall in Metropolitan Area, be known as Metropolitan Magistrate;

(c) Magistrate of the second class; and

(d) Magistrate of the third class

Explanation:

For the purpose of this sub-section, the word ―Chief Metropolitan Magistrate‖ and

―Chief judicial Magistrate‖ shall include ―Additional Chief Metropolitan Magistrate‖ and ―Additional Chief judicial Magistrate‖ respectively.]

5.3 Observation through some criminal cases in Bangladesh

This is a title attempt to find out some defects or problems visible or arise while adjudicating Criminal cases corresponding to Criminal Justice system of Bangladesh, going through some criminal cases. Thus the studies object to find out some problems which obstruct the fair and natural Justice. Here we are about to observe some criminal cases which have been either dismissed or failed to seek remedy to the victim in lieu of defects of laws or other technical problem.

Case No-01:

1. Title and section of laws for Accusation:

The case has it name as Pallabi Police station Case no-17(12)12 corresponding to GR case no-130/12 between the State Vs Ashraf Ali and others as the case was filed by Mr.Abdur Rahman under section – 143/323/435/506 of Bangladesh Penal Code 1860.

2. Facts of the case:

Here the plaintiff filed a GR case in Pallabi police station for hurting him with an unlawful Assembly and Putting fire on his car in Road side. He mentioned name of persons by name which he saw at that place during commission of that offence in the Ajahar.

The case against the accused was brought under section-143/ 323/ 435/ 506 of the Penal Code. He filed the case on 03/12/2012 and the case sent to the court in 04/12/2012 for Trial.

3. Present stage of the case:

The case is fixed for 06/09/2013 after several dates. Yet No police report has been founded under section 173 of code of criminal procedure.

Several accused has already got bail from the court by surrendering themselves at different date after filing the case. Yet several offenders are out of Jurisdiction of the Court or Judicial capacity.

4. Observation:

Though 9 months already passed out after the filing of the suit but yet the Punishment or no Reasonable step has been got for its adjudication or seeking the Remedy to the plaintiff. From a deep analysis and observation it is seen to me that following are the main case for the pendency or delaying of this very case—

a) Negligence by the police whose duty is to submit police report either charge- sheet or Final Report under section 173 of the code of Criminal Procedure.

b) No adequate step has been taken by the law enforcement body to bring the co-offender with in judicial capacity or the execution body is incapable on doing so.

c) No such direction has been given by the court to provide police report.

Case No-02:

1. Title and section of Accusation:

This case is between Md.Rubel Sordar Vs Md. Summon and others.

The case is introduced as Rupnogor Police Station case no- 21(12)12 corresponding to GR no—98/ 12 in lieu of section—143/ 323/ 326/ 379/ 441/ 506 of the Penal code 1860.

2. Facts of the case:

Md.Rubel Sordar was passing through eastern housing Bridge along with his two friends. Md. Summon with hockey, Iron, knife and left them Bringing there mobile phone and cash 10,000/= taka as they previously claim money from the victim plaintiff and he denied.

Md.Rubel Sordar filed a GR case on 21^{st} day of December 2012 under section143/ 323/ 326/ 379/ 441/ 506 of Penal Code and sent to the court on the next day by the police.

3. Present stage of the case:

The magistrate ordered no 06/05/2013 for warrant and attachment of the property of the accused sent in charge-sheet sent by the police under section—173 of the criminal procedure code as one of the accused abscond himself from Judicial Capacity .

The other offenders surrendered themselves before the learned court and took bail at different date. Before the police sent charge- sheet mentioning accused but the section – 379 is replaced with section –385 of the penal Code and the accused who committed offence under- section- 379 has been not sent up. The accused desire him to sent up But no Naraji has been filed. Thus the case is kept for next working on 29/09/2013.

4. Observation:

This cases within ten months almost reasonably overcome. Its pre- trial stage but from studying the case following cases of delaying or incapacity of criminal

Judicial System is observed:–

a) It took much time to complete its pre- trial stage.

b) Police officer in charge of the case either took pecuniary benefit or biased in case of an accused or suffered from incapacity during investigation.

c) For seeking the offender around the capacity of law the executive body showed its incapacity.

d) The staff of the court is shortening from man power to send the order for warrant and attachment of the property to the executive body without any delay.

e) The plaintiff either threatens or has reasonably lost his will to file Naraji or not interested in seeking Remedy after a case has been duly filed.

Chapter 6

RECOMMENDATIONS & CONCLUSION

6.1 Recommendations

1. Learned court should grants bail of intramtatigue, children‘s women softly Sec. 497 of the Cr.P.C: Accused was found by Investigating Officer to be involved in trespassing but Deputy Superintendent of Police did not agree with the finding of Investigating Officer. Person during bail bearing but it is not considered by the leaned court in sometime.
2. Trial systems of our judiciary is absolate of granting criminal justice.
3. All allegations of oppressions should be quickly and immediately investigated of the court.
4. The orders and directions should be obeyed entirely, immediately and strictly by the police.
5. Judicial detention is preferable to executive detention. In order to ensure the proper functioning of democratic environment and to maintain the standard of criminal cases, the above recommendations should be ensured and practiced.

Eventually, the criminal cases may add aforesaid provision in our constitution or in the laws criminal cases for which will be specifically mentioned that the preventive detention law cannot be used by government except in times of emergency, war or external aggression.

6.2 Conclusion

Our Criminal Justice System is in constant state of instability. In this study we have discussed that the courts are overwhelmed by ever increasing flood of litigation, a situation that may be termed as ―explosion of litigation for which it appears that there is a growing frustration among the people with regard to the Criminal Justice System In Bangladesh as a result Criminal Justice System for the poor and disadvantage people is becoming more difficult. The research shows a great uncertainty in disposing pending cases, hence research suggests that can be used fair application of rules and procedures but also logistic support, resource mobilization, adequate managerial capacity, case management, increase of judges, increase of courtroom, high budgetary allocation for the prosecutorial service, scientific facilities like using electronic and audio-visual equipment in investigation of criminal offences. Government is considering introducing a permanent attorney system, which is prevalent in developed countries. Though the provisions for speedy tribunals and courts have been made, yet a lot of cases are disposed of by them compared to caseload of the Criminal Justice System. But, introduction of new technology, proper training of the professionals who are involved in the justice system, accountability for the action and more professionalism will bring steady progress in Bangladeshi Criminal Justice System.

REFERENCE

Books & Articles

1. Regan Dey, *'Impact of Human Genetics on Criminal Behavior and Criminal Justice System'*, *Journal of Law*, vol. I, no. 1 (Jun. 2003), p.3.
2. Bernard and Jeffrey B. Snipes, *Theoretical Criminology*, 5th ed. (New York: Oxford University Press, 2002), p.31.
3. The Criminal Justice Act 1967
4. Measuring Crime: How Much Crime is There?, p. 1
5. Criminology Class, Fall 1999, p. 1
6. Tehrani and Mednick, *Genetic Factors and Criminal Behavior*, (London: Federal Probation, 2000), p.24.
7. R. v Mohan (1975) 2 All ER 193

8. Jay Joseph, _Is Crime in the Genes, A Critical Review of Twins and Adoption Studies of criminality and antisocial behavior‘, *The Journal of Mind and Behaviour,* vol. 22, (Dec.2001), p. 179.
9. Latin for: "guilty act"
10. The Discussion in Corporate Manslaughter'
11. Frank E. Hagan; *Introduction to Criminology*: *Theories. Methods, and. Criminal Behavior,* (Chicago: Nelson-Hall, 1989), p.109.
12. D.P.P. v. Smith 2; Shaw v. D.P.P.
13. Dr Salimullah &Anisur Rahman, Legal History of Bangladesh.
14. Rayees Rasool, Criminal Justice System In India, Countercurrents.org, 05 March, 2024
15. Rayees Rasool is Project Coordinator, Criminal Justice Initiative , Human Rights Law Network, New Delhi **Website**

1. http://www.deathpenalty.org/article.php?id=46
2. https://www.csudh.edu/dearhabermas/crimlect07.htm
3. https://www.csudh.edu/dearhabermas/crimlect07.htm