

JUVENILE DELINQUENCY IN BANGLADESH: ISSUES AND CHALLENGES

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Abstract: *Juvenile delinquency, also known as juvenile offending, or youth crime, is participation in illegal behaviour by minors or juveniles (individuals younger than the statutory age of majority). A juvenile delinquent is a person who is typically under the age of 18 and commits in the act that otherwise would have been charged as a crime if they were an adult. This research paper discusses the scope and limitation of the study, the objectives of the study, the research methodology and the review, provides the conceptual issues relating to Juvenile delinquency. It also discusses the causes of it. The research provides the establishment of the juvenile court, trial procedure of this court and administration of juvenile justice system in Bangladesh, shows the relevant statutory laws with Juvenile delinquency. Last of all, some findings and recommendations have been extracted out of this study. Current efforts to fight juvenile delinquency are characterized by the lack of systematic action and the absence of task-oriented and effective social work with both offenders and victim such as seminar, workshop, field-work whether real or potential. Analysis is further complicated by a lack of international comparative data.*

Keywords: Juveniles Deprived, Justice System, Crime, Bangladesh

Research Area: Law and Social Sciences

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1. INTRODUCTION

Juvenile delinquency has become a global phenomenon these days. Despite intensive rehabilitative measures and special procedure for tackling the problem of Juvenile delinquency, there is a growing tendency among youngsters to be arrogant, violent and disobedient to law with the result there has been a considerable rise in the incidence of juvenile delinquency. Delinquent and criminal behaviour among young people, as they negotiate the transition from childhood to adulthood in an increasingly complex and confusing world, is the issue. For many young people today, traditional patterns guiding the relationships and transitions between family, school and work are being challenged. It is not only developed countries that are facing this situation, in developing countries as well there are new pressures on young people undergoing the transition from childhood to independence.

The problem of Juvenile delinquency is therefore essentially of a recent origin. The youngsters between a certain age group are easily attracted to the temptations of life and thus lend into criminality. The restructuring of the labour market, the extension of the maturity gap and arguably, the more limited opportunities to become an independent adult are all changes influencing relationships with family and friends, educational opportunities and choices, labour market participation, leisure activities and lifestyles. It is becoming more complicated and universal, and crime prevention programmes are either unequipped to deal with the present realities or do not exist. Many developing countries have done little or nothing to deal with these problems, and international programmes are insufficient. Developed countries are engaged in activities aimed at juvenile crime prevention, but the overall effect of these programmes is rather weak because the mechanisms in place are often inadequate to address the existing situation.

On the whole, current efforts to fight Juvenile delinquency are characterized by the lack of systematic action and the absence of task oriented and effective social work with both offenders and victims, whether real or potential. An analysis is further complicated by a lack of international comparative data.

The scope in the study relates to juvenile delinquency in Bangladesh and ranges for a period of ten years i.e. from 2010 to 2019. This study will not go beyond the said period but it may discuss an issue beyond this period if it seems to be very important. It may be noted that this study will not specifically focus only on juvenile delinquency in Bangladesh. Due to constraint of time and financial support, the study is limited in respect of time and place as mentioned above. This study only focuses on the criminal matter not civil.

2. OBJECTIVES OF RESEARCH

Every research has some specific objectives and goals. The aim of the study is to identify the present condition of juvenile delinquency: issues and challenges in Bangladesh. So some objectives have been identified on the basis of the issue, such as-

- a. To fine out the actual scenario of the condition of Juvenile delinquency.
- b. To find out the causes of it.
- c. To raise the awareness of it among people.
- d. To improve the condition of Law.
- e. To justify the enforcement of law.
- f. To compare the condition of other countries.
- g. To find out the prevention procedure of Juvenile delinquency in Bangladesh.
- h. To give some recommendation for the prevention and protection of Juvenile delinquency.

3. LITERATURE REVIEW

There is no particular effective study on the Juvenile delinquency in Bangladesh. The main purpose of the review of literature is to identify the knowledge gap in the field of the proposed research. The reviewed works of literature are searched from books, journals, newspapers, booklets, periodicals. Relevant case decisions of the court of home and abroad will also be reviewed to complete this research work. There are many articles that deal with different aspects of Juvenile delinquency. But it is not possible to get a total and original picture of the Juvenile Delinquency in Bangladesh and its issues and challenges. So it becomes very much necessary to conduct a comprehensive study on the Juvenile delinquency in Bangladesh and its issues and challenges.

4. METHODOLOGY OF RESEARCH

The suggested method in the study is through the use of primary and secondary information. Primary information has been collected on perusal of Acts, Ordinances, Rules, Regulations, Byelaws, Parliamentary debates, Case decision etc. The materials that can be used are collected from the qualitative reports.

The research will also discuss the issue with the Jurists, legal officers, law-makers. Information will also be collected from the secondary sources like from the report of the general assembly of the United Nations, case studies, internet and other information that will focus on the issue of Juvenile delinquency in Bangladesh are good sources of information that can help to complete the study. The obtained information will be organized in a comprehensive way.

5. CAUSES OF JUVENILE DELINQUENCY

The intensity and severity of juvenile offences are generally determined by the social, economic and cultural conditions prevailing in a country. There is evidence of a universal increase in Juvenile crime taking place concurrently with economic decline, become young offenders, having already encountered violence in their immediate social environment as either witnesses or victims of violent acts.

5.1 Economic and Social Factors

Juvenile delinquency is driven by the negative consequences of social and economic development, in particular economic crisis, political instability and the weakening major institutions. Socio-economic instability is often linked to persistent unemployment and low incomes among the young, which can increase the likelihood of their involvement in criminal activity.

5.2 Cultural Factors

Delinquent behaviour often occurs in social settings in which the norms for acceptable behaviour have broken down. Under such circumstances, many of the common rules that deter people from committing socially unacceptable acts may lose their relevance for the same members of society. An example of such a setting would be the modernization of traditional societies and the accompanying changes wrought by the application of new technologies, shifts of this magnitude affect the types and organization of labour activity, social characteristics, lifestyles and living arrangements, and these change, in turn, affect authority structures, the form of obedience and modes of political participation even going so far as to influence perceptions of reality.

5.3 Urbanization

Geographical analysis suggests that countries with more urbanized populations have higher registered crime rates than do those with strong rural lifestyles and communities. This may be attributable to the differences in social control and social cohesion.

Rural grouping relies mainly on family and community control as a means of dealing with antisocial behaviour and exhibits markedly lower crime rates. Urban industrialized societies tend to resort to formal legal and judicial measures, institutional differences as such that responses to some offence may vary widely from one country to another.

5.4 Family

Dysfunctional family settings – characterized by conflate, inadequate parental control, weak internal linkages and integration, and pre-mature autonomy – are closely associated with juvenile delinquency. Children in the disadvantaged family that have few opportunities for legitimate employment and face to a higher risk of social exclusion are overrepresented among offenders. The plight of ethnic minorities and migrants, including displaced persons and refugees in certain parts of the world, is especially distressing.

5.5 Migration

Because immigrants often exist in the margins of society and the economy and have little chance of success in the framework of the existing legal order, they often seek comfort in their own environment and culture. Differences in norms and values and the varying degrees of acceptability of some acts in different ethnic subcultures result in cultural conflicts, which are one of the main sources of criminal behaviour. Native Urban populations tend to perceive immigrants and, obvious deviants.

5.6 The Media

Television and movies have popularized the ‘cult of heroes’ which promotes justice through the physical crimination of enemies. This is mainly characteristic of 8 to 12 years old boys, who are more vulnerable to such influences. Media bring on the individual to violence in three ways. First, movies that demonstrate violent acts excite spectators and the aggressive energy can then be transferred to everyday life, pushing an individual to engage in physical activity on the streets. Second, television can portray ordinary daily violence committed by parents or peers. The American Psychological Association has reviewed the evidence and has concluded that television violence accounts for about 10 percent of aggressive behaviour among children.

5.7 Exclusion

The growing gap between rich and poor has led to the emergence of unwanted others. The exclusion of some people is gradually increasing with the accumulation of obstacles, ruptured social ties, unemployment and identity crisis, welfare systems that have provided relive but have not eliminated the humble socio-economic position of certain groups, together with the increased dependence of low-income families on social security services, have contributed to the development of a ‘new poor’ class in many places.

5.8 Peer influence

Youth policies seldom reflect an understanding of the role of the peer group as an institution of socialization. Membership in a delinquent gang, like membership in any other natural gripping, can be part of the process belonging and becoming an adult. Through such primary associations, an individual acquires a sense of safety and security, develops knowledge of social interaction and can demonstrate such qualities as loyalty or leadership. In adult society, factors such as social status, private welfare, race and ethnically are of great value, however, all members of adolescent groups are essential in an equal position and have similar opportunities for advancement in the hierarchical structure.

5.9 Delinquent Identities

In identifying the causes of criminal behaviour, it is important to determine which factors contribute to a delinquent identity and why some adolescents who adopt a delinquent image do not discard that image in the process of becoming an adult. Delinquent identity is quite complex and is, in fact, an overlay of several identities linked to delinquency itself and a person’s ethnicity, race, class and gender. Delinquent identity is always constructed as an alternative to the conventional identity of the larger society. Violence and conflicts are necessary elements in the construction of group and delinquent identity.

5.10 Offenders and Victims

Criminal activity is strongly associated with a victim’s behaviour. People may become accidental victims, as assault is often preceded by heated discussion. According to the classification of psychological types, there are three typical adolescent victims of violence: accidental victims; people disposed to become victims and inborn victims.

Studies have shown that in the majority of cases that result in bodily harm, the offender and his victim are acquainted with one another and may be spouses, relatives or friends; this is true for 80 percent of murders and 70 percent of sexual crimes.

6. JUVENILE DELINQUENCY IN BANGLADESH

Juvenile delinquency is one of the serious problems of mass society. It is almost an outcome of rapid urbanization and industrialization of modern times. This has almost become a universal problem in most of the industrialized countries including India and Bangladesh. Before proceeding further it is necessary to understand what Juvenile delinquency is.

Delinquency is a kind of abnormality. When an individual deviates from the course of normal social life, his behaviour is called delinquency. When a juvenile below an age specified under a statute exhibits behaviour which may prove too dangerous to society or himself he is called juvenile delinquency.

The second United national congress on the prevention of the crime and treatment of offenders (1960) states “By Juvenile Delinquency should be understood the commission of an act which is committed by a adult, would be considered as a crime.”

In Bangladesh, we have not experienced any counter youth culture like Teds, mods, Rock’n Roll, Hippy or punk of Britain o any young gang culture of the U.S.A out ranging moral and social concern. But the process of urbanization (which started from the 1960s), migration from village to city (Which started at a large scale from the 1980s), vulnerable economic condition and impact of globalization caused the social transformation, through slow, of Bangladesh. The large Joint families Started to break into segments and single-parent family begun to get prominence. Economic deprivation, unemployment, Poverty, flimsy family ties, media influence and criminalized polities made a fertile ground for increased rate of juvenile delinquency.

6.1 Definition of Child and Age of Criminal Responsibility:

The Beijing Rules look to the nature of the punishment of the offence rather than the offender in determining who is a juvenile.

The Convention on the Rights of the Child, 1989 defines a child, means any person under the age of 18 years.

In India and Pakistan, a child means a person who has not completed eighteenth years of age

The concept of a child has given varied definitions by different Acts and statutes in force in Bangladesh.

Name of the Act	A child is a person who is under the age of
The Majority Act, 1875	18 years
The Guardians and Wards Act, 1890	21 years
The Child Marriage Restraint Act, 1929	Boy-21, Girl-18
The Suppression of Violence Against Women and child, 2003	18
The Labour Code, 2006	14
The Children Act, 1974	16

From the table, it might appear to our mind that the laws of Bangladesh are neither provides a unique age limit to define a man as a child nor are inconsistent with international standard. In this regard the counter-argument is specific requirements of the concerned legislation rather than a holistic view guided the definition of a child not to deviate too much from the prevailing norms.

Sec. 2(s) of the draft children Act, 2010 states, and a child is a person who is under the age of 18 years. The age limits are also fixed in the National Plan of Action.

Moreover, the National Plan of Action, 2010 of Bangladesh provides everyone under the age of 18 is a child. Lastly, the hope is that with the enactment of the draft Children Act, 2010 all confusion relating to the definition of the child will go away.

6.2 Minimum Age of Criminal Responsibility:

The domestic laws of all countries have laid down a minimum age below which a person is an element from prosecution and punishment. The rationale for such exemption is the absence of means rea, i. e. not to criminalize the acts of those who at the time of the commission of the crime did not know the Article 40 (3) (a) of CRC requires state parties to promote ‘the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.’

6.3 Establishment of Juvenile Court:

A Juvenile court (or young offender’s court) is a tribunal having special authority to try and pass judgments for crimes committed by children or adolescents who have not attained the age of majority. In most modern legal systems, crimes committed by children and minors are treated differently to the same crimes committed by adults.

Severe offences such as murder and gang-related acts, in 44 states of the USA are treated the same as crimes committed by adults. It was reported in 2007 that “Beginning around 35 years ago, increases in violent juvenile crime permitted judges to transfer juveniles to adult criminal courts. No national data exist on the number of Juvenile offenders prosecuted as adults. The main difference between a juvenile court and an adult court in England is that the juvenile court has a much wider jurisdiction in terms of the offences it can try. It can deal with a juvenile for any offence except homicide, although it is not bound to deal with a young person for a serious offence such as robbery or rape, on such a charge he can be committed to the crown court for trial in the same manner as an adult.”

In Bangladesh the government may, by notification in the official gazette, establish one or more juvenile courts for any local area and absence of juvenile courts the following court shall be empowered to work as a juvenile court:

- The High Court Division
- The Sessions Court
- The Additional Sessions Court
- Sub-Divisional Magistrate
- First Class Magistrate

6.4 Juvenile Courts Have The Following Powers:

- It shall have the power to try any case in which a child is charged with the commission of an offence.
- It shall deal with or dispose of any other proceeding under this act.

These courts can try all cases originally or on appeal or in revision. A Juvenile court can try all cases in which a child is charged with the commission of an offence, but shall not have power to try any case in which an adult is charged with any offence mentioned in part VI of this Act. No child shall be charged with, or tried for, any offence together with an adult.

7. FINDINGS AND DISCUSSION

The current situation with regard to juvenile crime and delinquency can be characterized by the following basic facts and trends:

- There has been an observed increase in violent and aggravated crimes among youth.

- The number of drug-related crimes is growing.
- The process of globalization and the greater mobility of large population groups have led to an increase in criminal activity associated with intolerance towards members of other cultures.
- The difficulties encountered by immigrants and their descendants in certain countries are sometimes related to the high levels of group crime deriving from the activities of ethnically based delinquent groups.
- In many cases, juvenile crimes are linked to less obvious sources of motivation.
- Quite often, aggressive and criminal behaviour is positively portrayed in the media, creating a confusing picture of acceptable societal norms within some youth subcultures.
- Children and adolescent in different circumstances constitute ready reserves for organized crime, participation in armed conflicts, human and drug trading and sexual exploitation.
- The disintegration of families, poverty and the death of parents in armed conflict or from HIV/AIDS has led to the forced independence of many young people around the world.

If delinquency policies are to be truly effective, a higher priority must be given to marginalized, vulnerable and disadvantaged young people in society and issues relating to youth in conflict with the law should be a central focus of national youth policies. The administration of Juvenile Justice should be decentralized in order to encourage local authorities to become actively involved in preventing youth crime and reintegrating youth offenders into society through support projects with the ultimate aim of fostering responsible citizenship.

8. RECOMMENDATIONS

While the Children Act includes some important procedural protections, it does not provide a particular sound basis for the development of a child-centered, rights-based juvenile justice system. The Act draws naively from the turn of the century.

The attitude problem of police towards juveniles is not also segregated but only a corollary of a deep-rooted crisis. Children are also subject to adult sentence, including life imprisonment, from as young as nine, and there are no juvenile protections for children between the ages of 16 and 18. Since 2003, there has been taken to improve police and court practices and to promote non-custodial alternatives. However, many of these initiatives have been conducted in isolation within geographically restricted areas and with a limited strategic focus. The national task force has developed a list of priority issues to be addressed in the juvenile justice system but there is no clear action-oriented plan.

In addition to the general recommendation in this paper, the following are suggestions for consideration:

- An ombudsman should be appointed who must have the power to investigate and make a report on the juvenile justice system.
- The full-fledged application of the children Act, 1974 irrespective of other laws under which a child may be accused e.g. Special powers Act or control of oppression of women & children or any other laws.
- If possible in every district there should be a juvenile court under the jurisdiction of a 1st class magistrate to deal with the matter.

- The establishment of juvenile court is not enough, the judges, magistrates appointed to the court must have special knowledge or training in child psychology or child welfare.
- Name of the juvenile court has to be changed because everyone in our country has negative apprehension towards court especially dealing with crimes. It may be named as Juvenile Justice Council.
- Medical test system for deterring age of the juvenile is to be introduced. Implementation of the compulsory birth registration system is also necessary.
- The government has to take imitative to establish a special police unit until then the appointment of 1 or 2 police officers (10) specially trained up to deal with juveniles in every police station.
- Moreover, the use of handcuff should be prohibited while police are dealing with juvenile comes in conflict with the law.
- Child victims should be kept at remand homes and charitable organizations. Police custody should be the last resort.
- It is expedient to establish a coordination and supervisory committee like children welfare Board in every district to supervise the works of the police, Probation officer and magistrate. There should be a central committee to monitor the police activists in each district.
- Demarcation of juveniles in the correctional institute on the basis of the age, crime, the mentality should be made. The correction method is to be revised in accordance with the advice of experts.
- Consultation and participation of children in drawing up new laws should be taken into account. When any juvenile court has not been established in any local area, the concerned Bar Association can exert pressure to implement sec. 4 of the children Act.
- An adequate number of probation officers with handsome salary should be appointed specially for the juvenile offence in every district.
- Community leaders, local associations and religions institutions should also be involved in rehabilitation and religions institutions should also be involved in the rehabilitation and correction of juvenile offenders.
- Politicians should be motivated not to use children in herbals, agitation against opposition parties.
- Diversion i.e. non-judicial method of resolving petty disputes alternatives to imprisonment should be introduced.
- Legal aid should be provided to juvenile the NTF be designated as the key co-ordinating mechanism for all juvenile justice reforms. And that it limits its focus to core juvenile justice issues.
- Introducing measure for civil remedies and criminal sanction to make exploitation of children will provide the child with an alternative for survival.

9. CONCLUSION

It is evident that there is a definite need for the progressive orientation of policies on juvenile justice towards decriminalization, depenalisation, diversion and de-institutionalization on children in conflict with the law. The juvenile justice system in its present state in Bangladesh has moved beyond the objective of public order and safety. The state plays a crucial role in the promotion and protection of children's rights even when they come in conflict with the law. This responsibility of the state, recognized by the constitution, has been formally endorsed by Bangladesh with the ratification of the convention of the rights of the child (CRC). It is high time for the Government of Bangladesh to put attention

on Juvenile issues. The govt. can take help from the NGO's either local (BLAST etc) international (UNICEF) or other donor groups.

At last, we got the sunshine when the new children Act, 2013 has been passed which meets many international standard mechanisms concerned with the Juvenile Justice System. Finally, I highly urge the government to implement this Act as soon as possible and to enlighten the cloudy sky of Juvenile Justice Administration. Only then, children might be able to take the baton of prosperity from the present generation.

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