Towards a Proper Juvenile Justice System in Bangladesh from a Cluttered one: An Analytical Overture on Focusing Human Rights Perspective

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1. Introduction

Juvenile delinquency is a burning issue, and a new phenomenon in the criminal and human rights jurisprudence. The juvenile of the world are innocent, vulnerable, and curious, full of hope, and belongs to thrill, aspirations, ambition and what not. In fact, the future of juvenile should be shared and cared in the light of equality, dignity and social justice with a view to protecting and promoting the best interest of the juvenile in particular and of the child in general. The situation of the juvenile delinquency, both in Bangladesh and abroad remains alarming and critical in nature. In fact in Bangladesh legal frameworks and initiatives for the protection and dealing with juvenile delinquency are not adequate and effective. As a result, in the name of juvenile justice, the justice and fundamental human rights have been infringing for a long time.

As juvenile are the member of vulnerable section, utmost sincerity and best care should be provided through laws and policies. In doing so, international approach for dealing with the juvenile delinquency is somehow nice and adequate but Bangladesh is lagging behind to cope with the international standard of juvenile issues.

This article will consider the protection of the rights of juvenile, juvenile delinquency focusing on international and national legal frameworks relating to human rights and their violation in this regard. It will also discuss the impacts of international instruments upon the national legislation. Besides, that for the purpose of this article attention will primarily be focused upon the development of juvenile delinquency, nature and some recommendations.

2. Historical Background of Juvenile Delinquency:

Children happened to be treated as not a person until 1700's. They used to get neither any special treatment nor even recognition. Before the 1700's there were some major assumptions regarding life. The first belief about life was- it is very tough to live so for surviving everybody has to be tough also. The people of that time in history did not have the conveniences that we take for granted e.g. various sorts of primitive medical practices were followed in comparison to present-day medicine. Another example can be cited here regarding marriage which was more for convenience, rather than for child-bearing or romance.¹

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Secondly infant and child mortality were high at that time. There was a strong chance that the children would not survive until adulthood. That’s why the parents were very reluctant to create any emotional bond with their children and it did not make any sense to them too.²

At the last few decades of 18th century, ‘the enlightenment’ appeared as a new cultural transition. This time is sometimes known as the beginning of reason and humanism. People started to see children as flowers, which requires nurturing in order to bloom. It was the invention of childhood, love and nurturing instead of beatings to stay in line. Children had finally begun to emerge as a distinct group. In fact, the upper class started it, who was generally allowed to attend colleges and universities.

Delinquency was available throughout all the time. In ancient Britain, even seven years old boys were tried, convicred, and punished as adults. There was no special treatment for them, a hanging was a hanging. Juvenile crime is mentioned as far back as ancient Sumeria and Hammurabi, where laws concerning juvenile offenders first appeared in written form.³

Most societies, to varying degrees and in different ways, have long accepted that ‘children’ should be dealt with somewhat differently from adults when they are found to be in conflict with the law. In Norway, for example, a thirteenth century penal code specifies that “adults might lose both hands if stealing, children only one”.⁴ Children accused of an offence now have the right to treatment that takes full account of their age, circumstances and needs but without any basic elements of the general human right to a fair trial being sacrificed - save the right to a trial in public, which they forego in order to protect their privacy.

United States of America is one of the pioneer countries on juvenile justice. In 1899 first juvenile court was set up in Cook County of State of Illinois. Today, every state has a separate court system for juveniles. These courts generally handle two different groups of juveniles: the delinquent offender and the status offender. A delinquent child is one who has committed an act that is a crime for adults under federal, state, or local law. Status offenders, on the other hand, are youths who are considered unruly or beyond the control of their legal guardians. Status offenses are not crimes. They are illegal acts that can only be committed by juveniles. Status offenses include running away from home, skipping school, refusing to obey parents, or engaging in certain behaviors such as drinking alcohol while under the age of majority.⁵

3. Definition of Juvenile: Difference of Ages

The definition of child is not uniform in the laws of Bangladesh. Different laws have defined children in different ways. Here the age limit of the juvenile or child is given below under some Statutes of Bangladesh:

a) According to section 2(f) The Children Act, 1974, ‘Child’ means a person under the age of sixteen years for the purpose of juvenile justice administration. But the United Nations Convention on the Rights of Children (CRC) of 1989 to which Bangladesh is a party defines a child as any person under the age of 18 years.

b) According to section 1(3) the Bengal Vagrancy Act, 1943 ‘Child’ means a person under the age of fourteen years.
c) According to section 2(m) of the Nari O Sishu Nirjaton Dohon Ain 2002, amended in 2003, ‘Child’ means a person who has not exceed the age limit of 16 years.

d) According to Section 2(f) of the jail Code, 1864, a ‘Child’ means a person under the age of 16 years.

It is indeed to say that, as far as proper functioning of the juvenile justice system is concerned, the determination of age is extremely important. However, regarding criminal matters when a child or juvenile will be liable, Bangladesh has some ambiguity in laws. To determine the age of criminal responsibility Section 82 of the Penal Code, 1860 says that nothing is an offence, which is done by a child under nine years of age. Further, Section 83 of the same statute provides nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion. It is however, one of the most difficult areas of criminal justice policy to provide the appropriate legal mechanisms to reflect the transition from the age of childhood innocence through the maturity and full responsibility under the criminal law. Although article 40 of the United Nations Convention on the Rights of the Child (UNCRC) of 1989 requires the state parties to set a minimum age below which children shall be presumed not to have the capacity to infringe the penal law, it does not set any particular minimum age of criminal responsibility. Beijing Rules8 of 1985 (rule 4.1) also without fixing any particular minimum age says that the age shall not be fixed at too low an age bearing in mind the fact of emotional, mental and intellectual maturity. These international standards are not also followed in Bangladesh as there is no uniformity in the definition of a child.

It’s really complex to explain crime and delinquency. A multitude of factors exist that contribute to the understanding of what leads someone to engage in delinquent behavior. It’s true that biological and psychological factors hold their own merit to explain crime and delinquency, but certainly social factors can be the best to explain juvenile delinquency. Juvenile delinquency is a massive and growing individual while others view delinquency as a micro level function of society.

4. International Legal Framework for Juvenile Justice

Juvenile Justice has become an international issue with the UNCRC coming into force in 1990. Articles 37 and 40 are very clear about the treatment of the children in conflict with the law, set elaborate procedures to be followed to deal with a juvenile to be deprived of liberty. For the purpose of discussing their rights only major provisions of these two articles are mentioned below:

Article 37 clearly says that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age. Besides that the Convention is repeatedly affirming that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

Furthermore, it has been stated in the same article that every child deprived of their liberty shall be treated with humanity and the inherent dignity of human person, in a manner, which takes into account the needs of the persons of his or her age. In particular, every child deprived of liberty shall
be separated from adults unless it is considered in the child's best interest not to do so and shall have
the right to maintain contact with his or her family. Regarding the access to justice it has been
reiterated that every child deprived of his or her liberty shall have the right to prompt access to legal
and other appropriate assistance, as well as the right to challenge the legality of the deprivation of
his or her liberty before a court.

The UNCRC provides some rules which the State Parties of this Convention should follow. It
declares that if any child has infringed any penal law, State Parties should treat them in a manner
consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's
respect for human rights and fundamental freedoms. To this end State Parties shall, in particular,
ensure that no one shall be alleged as or be accused of or recognized as having infringed the penal
law by reason of acts or omissions that were not prohibited by national or international law at the
time they were committed. The state parties should give following guarantees to the accused children
that—they will be presumed innocent until proven guilty according to law and be informed promptly
and directly of the charges against him or her. The matter should be determined without delay by a
competent, independent and impartial authority or judicial body. The accused children should not be
compelled to give testimony or to confess guilt. If it is considered that the penal laws are infringed
by them then they should have a right that the decision be reviewed by a higher competent, independent
and impartial authority or judicial body according to law. If they cannot understand the language
used by the court or other judicial body or authority then they should have the free assistance of an
interpreter. Finally their privacy should be fully respected at all stages of the proceeding.

For the establishment of a minimum age below which children shall be presumed not to have the
capacity to infringe the penal law the State Parties shall seek to promote the establishment of laws,
procedures, authorities and institutions specifically applicable to children alleged as, accused of, or
recognized as having infringed the penal law. A variety of dispositions, such as care, guidance
and supervision orders, counseling, probation, foster care, education and vocational training programs
and other alternatives to institutional care shall be available to ensure that children are dealt with in
a manner appropriate to their wellbeing and appropriate both to their circumstances and the offence.

Except the UNCRC there are three other important UN sponsored documents dealing explicitly with
the standards and guidelines for the treatment of children and young people coming in conflict with
the law. The first of these documents is Beijing Rules, which in fact predates the UNCRC by five
years. The other two documents were adopted in 1990. They are the UN Guidelines for the Prevention
of Juvenile Delinquency of 1990 (the Riyadh Guidelines) and the UN Rules for the Protection of
Juveniles Deprived of Liberty of 1990. Beside these four international instruments on the Juvenile
Justice, there are some additional documents, which are often referred to in any discussion on Juvenile
Justice. These are: the Standard Minimum Rules for the Treatment of Prisoners of 1955, United
Nations Standard Minimum Rules for Non-custodial Measures of 1990 etc. It is important to note
that though Bangladesh is not a signatory party of all these aforesaid international documents but it's
a moral obligation to follow these for the betterment of juvenile.
5. Status of Human Rights Regarding Juvenile Delinquency and Its Violation in Bangladesh:

As it mentioned above in ancient times, children were thrown into jails with adults. Long term imprisonment and corporal punishment were very common. Even some of them were so unlucky to be hanged to death for their crimes. Reformers concerned about the harsh treatment of children urged the establishment of a separate court system for juveniles. The idea behind juvenile court was that children in trouble with the law should be helped rather than punished. Central to the concept of juvenile court was the principle of *pares patriae*. This meant that instead of lawyers fighting to decide guilt or innocence, the court would act as a parent or guardian interested in protecting and helping the child. Hearings would be closed to the public. Proceedings would be informal. If convicted, children would be separated from adult criminals.\(^{16}\)

In Bangladesh, according to the Children Act, 1974 and also the Code of Criminal Procedure, 1898 children can only be tried in the Juvenile Court\(^{17}\) and no joint trial can be held with the adults\(^{18}\). Their trial shall be held in camera i.e. only people directly involved in the case and the officers of the court can be present during the trial.\(^{19}\) Even the report of Probation Officer or any other report considered by the Court under section 15 shall be treated as confidential and publication of report of proceedings, photograph of child leading directly or indirectly the identity of such child is prohibited and punishable by a fine of Tk 200\(^{20}\). But these provisions regarding trial are not followed by any court of Bangladesh and it has been observed that children are usually tried in the ordinary criminal courts and often with the adults in case they are co-accused with adults. Here we mention some newspaper references where it has been shown that children are rampantly tried with adults and sent to jail with eradicate violation of human rights:

- A study by *Odhikar* it was found that in 2001 in Dhaka Central Jail 7% of the Children arrested with adults on suspicion under section 54 of the Code of Criminal Procedure, 1898 had been in custody for more than 2 years.\(^{21}\)
- In June 2002, police arrested an 11 year old boy and sent him to prison after a detained smuggler named the boy and other members of the boy’s family as accomplices. The local human rights organization filed a petition with the court to secure the boy’s release. There were no developments in this case during the year. In a similar incident, a 14 year old boy was released from prison in December after 2 and half years in custody. The child was arrested in a blanket sweep against criminals and was never charged with any offense.\(^{22}\)
- On July 9, 2005 the Dhaka Metropolitan Magistrate Court released a nine year-old boy from a criminal case after investigators from a local human rights organization noticed him during a regular prison visit.\(^{23}\)
- On 6 August 2005, the army arrested two teenager identified as *Santo Chakma* (14 years) and *Iron Chakma* (16 years) from Muchalong Baghaichhari upazila in Rangamati and sent them to Rangamati district jail.\(^{24}\)
- On April 9, 2007 in *The New Age* newspaper, a report has been published that the police arrested a nine-year-old boy at Lakhian Bazar in Chittagong on charge of rape and he has been sent to jail.\(^{25}\)

Moreover, it has been mentioned in the Children Act 1974 that whenever a person is brought before any criminal court and it appears to the court that he is a child, the court shall make an inquiry as to the age of that person and, for that purpose the court shall take such evidence as may be forthcoming.
at the hearing of that case, and shall record a finding thereupon, stating his age as nearly as may be.
But there is no well-established mechanism in our country to determine the age. In the absence of
birth registration practice, the judges and magistrates have to depend on mere speculation or medical
certificates, which can not give the exact age of children. Again it has been seen the police whom the
juveniles face first are reluctant to record the proper age of the children and at the time of arrest they
intentionally enhance the age to avoid complications in dealing with the juvenile cases. Police are
required to mark the age of children in red ink to facilitate the judges and magistrate to identify them
as juvenile cases. But nowhere in Bangladesh it could be found that the age is marked with red ink
practically.

Where a person is apparently under the age of 16 years is arrested on a charge of non-bailable
offence and can not be brought forthwith before a court, the officer-in-charge of the police station
may release him or her on bail. Where a person apparently under the age of sixteen years having
been arrested is not released on bail, the officer-in-charge of the police station shall cause him or her
to be detained in a remand home or a place of safety until he can be brought before a court. But it has
been found that the children are staying in the Police station. They are neither released on bail nor
send to any remand home. The officer in charge of any police station shows the reason behind it is
that they do not have sufficient number of transport to send them to any remand home or safe
custody.

Immediately after the arrest of a child, it shall be the duty of the police officer or any other person
affecting the arrest to inform the Probation Officer of such arrest in order to enable the Probation
Officer to proceed forthwith in obtaining information regarding the antecedents and family history
and other material circumstances likely to assist the Court in making its order. Where the child is
arrested, the officer in charge of the police station to which he or she is brought shall forthwith
inform the parent or guardian of such arrest, if found and shall also cause them to be directed to
attend the court before which the child will appear and specify the date of such appearance. But
neither the probation officers are informed by the police and nor the guardians are found with the
help of the Probation Officers and the chain of the juvenile justice system is broken in the initial
stage.

It is strictly prohibited that any child shall be sentenced to death or imprisonment unless the court is
of the opinion that the crime committed is of so serious nature or the child is so unruly or depraved
that he cannot be committed to a certified institute, the child can be sentenced to imprisonment.
For the purpose of any order which a Court has to pass under the Children Act, the Court shall have
regard to the following factors: the character and age of the child; the circumstances in which the
child is living; the reports made by the probation officer; and such other matters required to be taken
into consideration in the interests of the child. The spirit of the Children Act 1974 dictates that no
children should be in any sort of detention, and if necessary for the best interest of the child that
should also be as a measure of last resort and for shortest appropriate period of time. And during the
detention they must be kept separate from the association of adults.
But once arrested, whatever the reason may be, children are subjected to physical and other inhuman and degrading treatment in the detention facilities which is a clear violation of the fundamental human rights guaranteed by the international human rights instruments including the UNCRD and the national laws as well. There are reported cases in which juveniles have been tortured to death while in police custody. The situation is the worst inside the jail. There is a special category of children in jail who have nothing to do with the criminal justice system. They are in the prison because their mothers are in jail. The Bengal Jail Code, 1864 permits a child to accompany his or her mother up to the age of four. The period may be extended by a further period of two years with the permission of the jail authority. There is in fact no allocation for these children. They share the allocation for their mothers, which is not sufficient for childhood development.32

Again in the Bengal Jail Code of 1864 some provisions are mentioned regarding the youthful offenders and juvenile delinquents. A prisoner up to the age of 21 is considered a juvenile or adolescent. Under section 27 of the Prisons Act 1894, male prisoners under the age of 21 shall be kept altogether separate from other prisoners, and, of the former, those who have not arrived at puberty shall be separated from others. All juveniles who are undergoing sentence of a year or more shall be brought under instruction in reading, writing, and arithmetic. Besides that various provisions for their diet, supplying of books and other materials for knowledge, teaching method, physical exercise and punishment procedures are mentioned which are not followed in practice at all. Even though it is specifically mentioned that at least six weeks before the release of any girl convict the Superintendent shall inform the Magistrate to inform their guardian to receive the girl. But these provisions are not maintained or followed properly. For a long time the juveniles and children are put in the jails with inhuman torture without ensuring any justice and human rights which we have discussed above.

Besides the above-mentioned national laws on juvenile delinquents there are several international laws on the similar matter which give certain standards to treat them throughout the whole world. Now we will see how the human rights and fundamental rights to keep the children in jail custody have been violated in Bangladesh:

- The 1955 Standard Minimum Rules for the Treatment of Prisoners — themselves inspired by standards endorsed by the League of Nations in 1934 — already set out the principle of separation of “young prisoners” from adults in custodial facilities and for adults and juveniles alike, the separation of accused.
- The 1966 International Covenant on Civil and Political Rights (ICCPR) reiterates these principles in the form of ‘hard law’, as well as prohibiting the death penalty for persons found guilty of a crime committed when they were under the age of 18 (Art. 6.5).
- The ICCPR also contains many safeguards applicable to all persons brought to trial and detained, and specifically states that “in the case of juvenile persons, the court procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation” (Art. 14.4).

As Bangladesh is one of the signatories of this Convention so it is obligatory for us to implement these provisions in our national legislation. But it is the matter of regret that these international standards are not strictly followed in Bangladesh. Moreover, the provisions of UNCRD have been
elaborately discussed earlier which denotes the violation of rules by Bangladesh. So from the above discussion it becomes clear that not only the legal rights provided by various laws but also the Human rights of the children and the juvenile delinquents have been violating from a long time in Bangladesh.

6. Findings and Recommendations:

Juvenile delinquency refers to antisocial or criminal acts performed by juveniles. It is an important social issue because juveniles are incapable of committing serious crimes, but society must also recognize that responsibility for juvenile behavior goes beyond the juveniles themselves. So now we would like to mention the lackings which are present in our exiting laws, find out the drawbacks in our juvenile justice system and try to give some recommendations to resolve the issues.

6.1 Inadequate Legal Aid:

Most of the children who come in conflict with the law and ultimately end up in jails come from very poor families. They often do not have the ability to engage lawyers for their defense. But the basic principle of criminal justice system is that everybody should have the right to defend himself or herself in the court of law. The legal system of Bangladesh is extremely inadequate in this regard. Though Bangladesh is full of excellent lawyers they do not serve the cases of the children. Even the poor lawyers do not want to defend the children because the family of them cannot provide the expenses of the lawyers. So from the above scenario it becomes clear that the main problem is in our legal system which is not giving ample support to juvenile delinquents. Though there is a fund for giving legal assistant or aid but this fund is not properly used.

6.2 Adverse Court environment:

The court environment where the offence of any child will be tried should be children friendly. In all the children development centers there are separate courts for children which are in comparison to other criminal courts more favorable for children. But very few cases are tried by these courts. Majority of the cases are tried by the Criminal courts where no special procedure is followed which are mentioned in the Children Act of 1974 not even the care is taken for any child. So either the criminal court environment should be changed or the trial should be held in these separate courts which are made especially for juveniles.

6.3 Lack of facilities in Juvenile correctional centers:

In Bangladesh at present there are three juvenile correction centers in the country with remand home facilities. Two for boys- one is in Tongi, Dhaka and one in Jessore. There is only one correctional center for girls in Konabari of Gazipur district. But these correctional centers are renamed as children development centers. They are supposed to be specialized agencies for taking care of children who come in conflict with the law. But they are now full with guardian referred cases. They also lack facilities for correctional activities. The curriculum for the vocational training is not up-to-date, the instructors are not skilled enough, and the officials and employees lack skill to deal with the children who need special care and attention. In a recent news paper report the dangerous scenario of the
Juvenile Development Centers has been published. One 10-year-old boy was found killed in the Juvenile Development Center with his throat slit and another one reportedly died in a clash between prisoners. The Government should take initiative to address this kind of serious problems inside the correctional centers and it should be taken care of with strict decisions. Besides that there is a need to incorporate counseling; modern trades for the correction centers and arrangements of training for the correction centers officials and employees.

6.4 Breaking of the chain of juvenile justice system:

The first step of juvenile justice starts after the arrest of any juvenile and by giving the information to any probation officer. But always it is not possible for the police officers to find out the family members of the child as they are busy otherwise. Similarly it is not possible for all the probation officer to go to every police station everyday to know whether there is any juvenile arrested at that day or not. So what can be done here is at least once in every week the probation officers can go to the police stations for getting the news of any child or juvenile. For this matter more probation officers should be appointed by the Social Welfare Department as the number of the probation officer is not sufficient. The probation officers also cannot perform their duty for lack of information. If this provision of the Children Act can be implemented properly then justice can be more effectively ensured.

6.5 Lacking of the Children Act 1974:

The main objective of the Children Act 1974 is that the children will never go to the jail in any circumstance. The principle of diversion, the corner stone of the international standards on juvenile justice, is not yet recognized by Bengali legislation and legal practice. Besides that many of the hallmark of the juvenile justice legislation like mediation, restorative justice, explicit preference for community based rehabilitation, community and NGO's involvement, clear protection between child offenders and children in need of protection are lacking. The Children Act does not contain any special provisions limiting the use of physical force nor does it have any special provisions in respect to the taking of statements or confession from children. There is no provision either in law or in practice for measures to protect children from abuse and intimidation during police questioning and interrogation. We should try to incorporate these provisions in our present legislations. The Children Act relies heavily on institutionalization of children and deprivation of liberty, is generally seen by the police and judiciary as the only possible way to rehabilitate or "correct" children.

6.6 Non-implementation of Court's verdict:

The number of children in jail increased by 42 in a month after the High Court had issued a rule on the government to explain why appropriate action would not be taken against it for keeping children in jail and for non-implementation of the High Court verdict delivered four years ago. That verdict was given by a High Court bench of Amirul Kabir Chowdhury and Nijamul Haque Nasim on April 9, 2003 detailing a seven-point directive for the government. Following this judgment Bangladesh has established a high level interagency National Task Force tasked with improving the conditions of children in jail. Chaired by the Principal Secretary to the Prime Minister (Dr. Kamal-Uddin Siddiqui). It also includes high ranking government official from all ministries as well as NGOs active in juvenile justice.
6.7 Alternative way from giving punishment should be followed:

Though it is our matter of discussion to find out the ways of reformation of jail but still we shall try to avoid giving punishment or sending any juvenile to any jail or correctional centers. In a very recent direction given by a bench of the High Court Division of the Supreme Court of Bangladesh constituted by Imran Ali and Emdadul Huq I said that before taking any child to custody while the trial is going on his or her (child) opinion should be taken. The positive side of this direction is that the opinion of a child should be taken, but there is a negative side also that the judges are indirectly encouraging to send them to any custody or jail.

Our recommendation in this point will be if any juvenile has committed any crime or found guilty then they should not be sent to any jail or correctional center at the very beginning. ‘Non-denial freedom’ this principle should be followed initially because in jail or correctional centers they will come in touch of other offenders. They may be inspired and stimulated by those habitual offenders. Rather some other types of punishments like community service can be inflicted upon them. Here the delinquents will be released on bail or parole or probation as it has been mentioned in the section 48 of the Children Act that they can be released by the police officer. After that either every day or twice a week they will clean the mosque or temples etc of his local area, do some tree plantation, work in any orphanage or any old home voluntarily etc. Therefore a sense of guilt will be developed within them that they have committed some wrong act but at the same time the punishment will not be that much severe also. By this way the reformative theory of punishments can also be followed and their reintegration into the society can be done easily. It is also important that these children are allowed to be “corrected” and reintegrated back into the mainstream society through proper correctional measures.

The children who are in need of protection should be separated from the children in conflict with the law. The children who are in need of protection like vagrants are arrested by the police officers and sent to the correctional centers or shelter home sometimes they come into the direct contact with the children who are there because of committing any offence. This contact can deteriorate the whole scenario.

6.8 The discretionary powers of the police officers should be reduced and controlled:

Under the different laws, the police enjoy wide discretionary powers to arrest children in need of protection on grounds of vagrancy, begging, prostitution, smoking, dropping out of school. This discretionary power of police should be controlled so that they cannot abuse this power and cause harm to a single child.

6.9 Sensitization and training is needed:

The police officers, the jail authority or the authority of any correctional centers, the lawyers and judges who deals with the juvenile delinquency and the probation officers, all of them should work combinedly. Proper training should be given to them and they should be sensitized regarding child related issues.

6.10 Co-operation among all the agencies who are working on juvenile justice is needed:

The Ministry of Law, Justice and Parliamentary Affairs, The Ministry of Women and Children Affairs and the Ministry of Social Welfare should work in partnership which will open up the
opportunity to further advocate to reform that will lead to the establishment of a child-oriented juvenile justice system in Bangladesh.

6.11 NGOs and Social welfare departments can play vital role to give legal aids and other assistants:

Various NGOs have shelter homes for children who need protection. They should come forward to provide shelters. By this way jail or correctional centers can be avoided too. They are also giving legal aids and working on juvenile justice. A huge number of children do not get justice for lack of fund or for their economic conditions. The NGOs can give legal aids to those children who are in vulnerable condition. Government has some funds too which can be used for this purpose.

The most effective role can be played by the Social Welfare Department of our Government. If the probation officers who are officers of this department exercise their powers and perform their duties properly then the majority number of the children who are in jail now can be released and the number of the children who are sent to any jail can be decreased.

6.12 The existed laws are to be properly followed and implemented:

Our government has taken a good step that it has made the birth registration compulsory now. Otherwise it was very difficult to determine the age. If this law is strictly followed then the problem of determining the age of children can be solved.

Beside that sometimes the children are connected with an offence where adult offenders are also related. Besides that child victims and witnesses of crime are subject to arrest and detention in order to safeguard them. Regarding this issue a separate charge sheet for children should be given. The child victims and witnesses should be sent to shelter homes not to the jails. The Children Act was passed in 1974 where it was mentioned that all the children should be kept separately in jail or police station. After the enactment of this Act many police stations or jails are established but not in a single police station or jail a separate place for children can be found. From this incident we can say that we do not need any new law for implementing juvenile justice. We need to implement the laws which are existed.

7. Conclusion:

It reveals from our forgoing study that adequate provisions have been developed for the protection and uphold the rights, justice and dignity of the juvenile in Bangladesh. It is a matter of sorrow that the objectives are often unclear or weakened by partial and inexpedient implementation. In order to proper implementation, we need to systemize and meticulous examination of our legislations and institution regarding juvenile delinquency. Indeed, not only the legislations will be only solution but also polices of the democratic political government would be sine qua non of the development of juvenile delinquency justice system in Bangladesh.

Apart from the legislations and polices, the mindset and approach of the members of the bar and bench, the legislature and the law enforcing agencies in Bangladesh, need to change in interpreting and executing laws of the juvenile matters properly.


25 See the web <http://www.newagebd.com/2007/apr09/front.html>

26 See 66 of the Children Act 1974

27 Ibid s. 48

28 Ibid s. 50

29 Ibid s. 13(2)

30 Ibid s. 51

31 Ibid s. 15

32 See the website <http://www.lsafilechild.org/save/juvenile_justice5.php>

33 Act IX of 1894

34 The Jail Code 1864, s. 962

35 Ibid s. 973

36 Ibid s. 972

37 Ibid s. 974

38 Ibid s. 975

39 Ibid s. 976

40 Ibid s. 977

41 Ibid s. 968

42 See the website <http://en.wikipedia.org/wiki/Juvenile_delinquency>

43 Odhikar Report, 13 months of emergency in Bangladesh, Immediately lift the state of emergency 12th January-2008 at <www.odhikar.org/documents/13_months_emergency.pdf>


45 Aparajito Bangladesh Annual report 2003. See also above note 44.


47 See above note 44.

48 The Daily Prothom Alo, on 24th July 2008, p.17.