

# The Criminal Justice System of Bangladesh Re-examined

Yasin Al Razi\*

**Abstract:** This article presents a descriptive outline of the key institutions within the criminal justice system of Bangladesh. The study aims to provide an overview of the institutional frameworks, roles, and functions of the major components of the criminal justice system, including law enforcement agencies, the judiciary, prosecution services, and correctional facilities. The research methodology adopted is primarily descriptive, aiming to objectively describe and document the institutions within the criminal justice system. The study draws upon existing primary and secondary data to ensure the accuracy and reliability of the information presented. The findings of this research contribute to a better understanding of the institutional landscape that shapes the criminal justice system of Bangladesh, serving as a valuable resource for policymakers, legal practitioners, and researchers.

## 1. Introduction

The 'Criminal Justice System' (CJS) serves as a fundamental pillar in maintaining law and order, ensuring public safety, and administering justice in any society. In Bangladesh, understanding the institutional frameworks of its CJS is crucial for legal practitioners, policymakers, and the general public. This research paper aims to provide a descriptive study that outlines the key institutions within the CJS of Bangladesh, shedding light on their roles and interconnections.

This research aims to present an overview of the institutions that form the core of the CJS of Bangladesh. It delves into the key components, including law enforcement agencies, the judiciary, prosecution services, and correctional facilities, highlighting their respective structures. By providing a precise outline, this research offers a foundational understanding of the institutional landscape that shapes the CJS of Bangladesh.

However, it is important to note the limitations of this study. While it seeks to present an outline of the institutions, it does not delve deeply into the operational intricacies or evaluate each institution's performance. Additionally, the study does not address issues beyond the institutional frameworks, such as policy analysis or recommendations for reform. The focus remains on a descriptive examination of the institutions within the CJS of Bangladesh, while the research relies on the existing relevant primary and secondary data.

By providing an outline of the institutions of the CJS of Bangladesh, this research seeks to contribute to the existing body of knowledge and foster informed discussions. It aims to provide a valuable resource for policymakers, legal practitioners, and researchers who are interested in understanding the underlying elements that shape

---

\* Assistant Professor, Department of Law, Jagannath University.

the CJS of Bangladesh. Moreover, this descriptive study offers a deeper insight into the institutional frameworks that underpin the administration of justice and contribute to a fair and effective CJS.

## 2. Criminal Justice System (CJS): Meaning

The CJS refers to the set of institutions, procedures, and practices that are established by a government to maintain social control, deter crime, enforce laws, and administer justice. It aims to deliver justice for all and ensures the citizens' safety.<sup>1</sup> It includes the legal proceedings and judicial systems involved in addressing criminal offenses.<sup>2</sup> The CJS comprises three components: law enforcement, the judicial process, and correctional systems. Hence, it is also referred to as a law enforcement system.<sup>3</sup> The major functions of the CJS involve the identification and apprehension of offenders, as well as the execution of court directives to ensure justice.<sup>4</sup> As the CJS consists of the government agencies charged with the enforcement of the law, adjudication of crime, and correction of criminal conduct,<sup>5</sup> it is responsible for investigating and apprehending individuals suspected of committing crimes, ensuring their fair and impartial trial, and imposing appropriate punishments or prescribing rehabilitative measures. It aims to uphold the rule of law, protect public safety, and promote justice within a society.

## 3. Criminal Justice System (CJS): Significance

The CJS holds immense significance within society as it serves multiple crucial functions. It deals with the issues of criminal behavior in society and aims to protect the public's enjoyment of human rights and the right to safety.<sup>6</sup> It maintains law and order by preventing and deterring criminal activities, ensuring public safety and societal stability. The implication of this system lies in its aim to guarantee an efficient, impactful, accountable, and equitable justice process for all individuals involved.<sup>7</sup> Its goal is to instill a fair degree of cohesion and stability in society by preventing crimes, protecting the innocents, and punishing the perpetrators.<sup>8</sup> Mere pronouncement of judgment is not the final destination of the CJS; rather it should thwart crimes from

---

<sup>1</sup> Goodwin University ENEWS, 'The Importance of the Criminal Justice System and Today's Professionals' ([goodwin.edu](https://www.goodwin.edu/enews/importance-of-the-criminal-justice-system/), 25 August 2020) <<https://www.goodwin.edu/enews/importance-of-the-criminal-justice-system/>> accessed 10 Jul 2023.

<sup>2</sup> Collins English Dictionary, 'Criminal Justice System' ([collinsdictionary.com](https://www.collinsdictionary.com/dictionary/english/criminal-justice-system)) <<https://www.collinsdictionary.com/dictionary/english/criminal-justice-system>> accessed 19 Feb 2023.

<sup>3</sup> Bryan Garner (ed), *Black's Law Dictionary* (9<sup>th</sup> edn, West 2009) 431.

<sup>4</sup> National Archives, 'Criminal Justice System: Aims and Objectives' (*Webarchive.Nationalarchives.Gov.Uk*, 2021) <<https://webarchive.nationalarchives.gov.uk/20100920201828/>> accessed 10 Jan 2023.

<sup>5</sup> Larry Seigel, *Criminology: The Core* (4<sup>th</sup> edn, Wadsworth, Cengage Learning 2011) 382.

<sup>6</sup> United Nations Office on Drugs and Crime, 'Crime Prevention & Criminal Justice' (*UNODC*) <<https://www.unodc.org/en/secondary/criminal-justice.html>> accessed 21 Jun 2023.

<sup>7</sup> HM Government, *Working Together to Cut Crime and Deliver Justice: A Strategic Plan For 2008-2011 Cm 7247* (Criminal Justice System 2007) 13 <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/243156/7247.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/243156/7247.pdf)> accessed 1 July 2023.

<sup>8</sup> Dr. Abdullah Al Faruque, 'Goals and Purposes of Criminal Justice System in Bangladesh: An Evaluation' (*biliabd.org*, 2021) <<https://www.biliabd.org/wp-content/uploads/2021/08/Dr.-Abdullah-Al-Farooque.pdf>> accessed 21 June 2023.

society.<sup>9</sup> The system administers justice, ensuring that individuals who have committed crimes face appropriate consequences, promoting fairness and accountability. Thus, legal features and social values should equally be reflected in this system making justice fair and accessible.<sup>10</sup> The primary objective of the CJS is to uncover the truth, identify and convict the guilty, and exonerate the innocent. Its purpose is not to prioritize maximizing the number of convictions.<sup>11</sup> While society employs informal mechanisms of social control such as parental and school disciplinary measures, *inter alia*, to prevent crimes, it is only through the CJS that the power to effectively control crimes and administer punishments to offenders is vested.<sup>12</sup> Ultimately, a fair and effective CJS upholds public trust, maintaining confidence in the legal system and reinforcing the rule of law.

#### **4. Criminal Justice System (CJS) of Bangladesh: An Outline**

The CJS of Bangladesh is composed of three main components: law enforcement, the judicial process, and the corrective system. The police primarily handle law enforcement issues, while the judicial process involves judges and advocates. The corrective system encompasses prison management, probation and parole services,<sup>13</sup> and juvenile (child) development centers.

##### **4.1. Bangladesh Police: The Core of Law Enforcement**

Since the introduction of the *Police Act* 1861 by the British Parliament, the Police in Bangladesh have been operating systematically. This legislation was implemented to establish a police force in each province of British India, with control vested in the respective provincial government.<sup>14</sup> Following the partition of British India in 1947, Pakistan adopted the pre-existing policing system. Subsequently, the East Pakistan Police was established as a provincial force. However, with the independence of Bangladesh on 16 December 1971, a significant restructuring of the existing police force occurred, leading to the establishment of the Bangladesh Police as a national law enforcement agency.<sup>15</sup> As the primary law enforcement agency, the Bangladesh Police operate under the jurisdiction of the Ministry of Home Affairs and play a crucial role in upholding law and order. They are dedicated to providing efficient and adaptable service delivery, as well as promoting care and social justice within the State.<sup>16</sup> In addition to its regular law enforcement duties, the Bangladesh Police also provides various specialized units and services, including traffic police, counter-terrorism units, rapid action battalions, and cybercrime units, among others. Overall, the Bangladesh Police plays a crucial role in maintaining law and order, protecting the rights of

---

<sup>9</sup> *ibid* 30.

<sup>10</sup> Al Faruque (n 8) 2 citing Joel Samaha, *Criminal Justice* (USA: West Publishing Co. 1988) 15.

<sup>11</sup> Al Faruque (n 8) 31.

<sup>12</sup> Seigel (n 5) 382.

<sup>13</sup> Garner (n 3) 431.

<sup>14</sup> Bangladesh Police, 'History' ([police.gov.bd](https://www.police.gov.bd/en/history)) <<https://www.police.gov.bd/en/history>> accessed 22 Mar 2023.

<sup>15</sup> *ibid*.

<sup>16</sup> *ibid*.

individuals, and promoting a safe and secure environment for all residents of Bangladesh. It continues to evolve and adapt to new challenges, striving to uphold professionalism, integrity, and dedication in its service to the nation.

## 4.2. Judicial Process: The Primal Facet

In Bangladesh, the functioning of the judicial process is vested in the judiciary and legal practitioners. As a result, the efficacy of this process relies on the harmonious collaboration between judges and advocates. According to Beg J., judges and advocates jointly establish the mechanisms necessary to ensure the effective administration of justice.<sup>17</sup> Administration of justice thus equally concerns the bench and the bar.<sup>18</sup> Hence, fostering a seamless connection between judges in both lower and higher courts and advocates from district bars and the Supreme Court Bar is essential to promote the efficient functioning of the justice system. Besides, advocates must be working independently and intrepidly,<sup>19</sup> to strengthen the judicial process of Bangladesh. The CJS of Bangladesh comprises three essential elements that drive the judicial process: the criminal judicature, the public prosecution service, and the defense advocates. The following sections provide a concise overview of these components:

### 4.2.1. Criminal Judicature

#### 4.2.1.1. The Higher Judiciary

The Supreme Court of Bangladesh, serving as the highest court of the nation, consists of two divisions, namely the Appellate Division (AD) and the High Court Division (HCD).<sup>20</sup> The AD possesses the authority to review and deliberate on appeals challenging judgments, decrees, orders, or sentences issued by HCD.<sup>21</sup> The HCD is vested with jurisdiction granted to it either through the Constitution or by any other legislation.<sup>22</sup> Therefore, the HCD can try offenses under the *Penal Code* 1860.<sup>23</sup> The criminal jurisdiction of the HCD encompasses different branches, including the appellate jurisdiction, the power of revision, and the exercise of inherent power.<sup>24</sup> It proudly retains the power of judicial review.<sup>25</sup> The HCD employs its inherent power to ensure the realization of substantial justice and uphold the provisions outlined in the *Code of Criminal Procedure* (CrPC) 1898.<sup>26</sup> The HCD is overtly responsible for exercising its supervisory and regulatory authority over all subordinate courts and tribunals under its jurisdiction.<sup>27</sup>

---

<sup>17</sup> Mr. Justice Mirza Hameedullah Beg, 'Role of the Bench and the Bar' (*Allahabadhighcourt.In* 2021) 1 <<http://www.allahabadhighcourt.in/event/RoleoftheBenchandtheBarMHBeg.pdf>> accessed 5 Apr 2023.

<sup>18</sup> *P.D. Gupta v Ram Murti and Others* [1998] AIR SC 283.

<sup>19</sup> *Mahant Hakumat Rai v Emperor* [1943] AIR Lahore 14.

<sup>20</sup> Constitution of the People's Republic of Bangladesh, Art 94.

<sup>21</sup> Constitution of the People's Republic of Bangladesh, Art 103.

<sup>22</sup> Constitution of the People's Republic of Bangladesh, Art 101.

<sup>23</sup> Sarkar Ali Akkas, *Law of Criminal Procedure* (Dhaka, Initiative for Research and Access to Justice 2019) 19.

<sup>24</sup> *ibid.*

<sup>25</sup> Constitution of the People's Republic of Bangladesh, Art 102.

<sup>26</sup> Ali Akkas (n 23) 20.

<sup>27</sup> Constitution of the People's Republic of Bangladesh, Art 109-10.

#### **4.2.1.2. The Subordinate Judiciary**

In Bangladesh, the lower criminal courts are categorized into two types: the Courts of Sessions and the Courts of Magistrates.<sup>28</sup>

##### **The Courts of Sessions**

To ensure the effective dispensation of criminal justice, Bangladesh is geographically divided into various 'Sessions Divisions', each of which houses a 'Court of Sessions'. In metropolitan areas, however, the Court of Sessions is called the 'Metropolitan Sessions Court'.<sup>29</sup> Generally, the Court of Sessions is presided over by three categories of judges – the Sessions Judge, the Additional Sessions Judge, and the Joint Sessions Judge.<sup>30</sup> The Sessions Judge conserves a higher position in comparison to the Joint Sessions Judges who exercise their jurisdiction within the Court of the Sessions Judge.<sup>31</sup> The Sessions Judge's Court possesses jurisdiction in matters of original, appellate, and revisional nature.<sup>32</sup> The jurisdiction of the Additional Sessions Judge is akin to that of the Sessions Judge. But the Joint Sessions Judge exercises original jurisdiction only.<sup>33</sup>

##### **The Courts of the Magistrates**

There are two classes of magistrates in Bangladesh – the Judicial Magistrates and the Executive Magistrates. The Judicial Magistrates are of four categories – Chief Judicial/Metropolitan Magistrate (CJM/CMM), Magistrates of the First Class/Metropolitan Magistrates, Magistrates of the Second Class, and Magistrates of the Third Class.<sup>34</sup> The government has the authority to appoint Executive Magistrates (EM) in each district and metropolitan area and designate one of them as the District Magistrate (DM), at its discretion. Additionally, the government has the power to allocate and regulate the authority of the EMs as deemed appropriate.<sup>35</sup> Indeed, the EMs are subordinate to the DM. On the contrary, the CJM sustains a higher rank than all other Judicial Magistrates, and the Metropolitan Magistrates are subordinate to the CMM. Furthermore, all Judicial Magistrates, including the CJM, are subordinate to the Sessions Judge, while the Metropolitan Sessions Judge has authority over the Metropolitan Magistrates, including the CMM.<sup>36</sup> The CMM or the Metropolitan Magistrate exercises original jurisdiction only. This is also true for the CJM or the Judicial Magistrate of First Class.<sup>37</sup> In addition, the CJM can exercise the jurisdiction of hearing and disposing of any appeal that has been brought to it from any sentence passed by the Magistrates of Second or Third Class.<sup>38</sup>

---

<sup>28</sup> The Code of Criminal Procedure (CrPC) 1898, s 6(1).

<sup>29</sup> CrPC 1898, s 7(1), 9(1).

<sup>30</sup> Ali Akkas (n 23) 20.

<sup>31</sup> CrPC 1898, s 17A (1).

<sup>32</sup> Ali Akkas (n 23) 27.

<sup>33</sup> CrPC 1898, s 193.

<sup>34</sup> CrPC 1898, s 6.

<sup>35</sup> CrPC 1898, s 10(1).

<sup>36</sup> CrPC 1898, s 17.

<sup>37</sup> Ali Akkas (n 23) 28.

<sup>38</sup> CrPC 1898, s 407.

#### 4.2.2. Public Prosecution Service

In criminal proceedings, the State is represented by the Public Prosecutor (PP), who acts as the official representative in all prosecutions.<sup>39</sup> The PP is a person who has been appointed by the government under section 492 of the *CrPC*.<sup>40</sup> This particular section provides authority for the government to designate PPs in a general capacity or for specific cases or categories of cases in any particular geographical region.<sup>41</sup> In situations where the appointed PP is not available or where no PP has been appointed, the DM is empowered to appoint an alternative individual to act as the PP for a specific case. However, this appointed person must not be a police officer below the designated ranks set by the government.<sup>42</sup> A PP may appear and plead before any court without any kind of written authority.<sup>43</sup> It is to be noted that, Bangladesh does not possess an independent public prosecution service. The PPs are appointed based on their political affiliation and ideologies.<sup>44</sup> Presently, there are 63 PPs, 40 Additional PPs, 88 Special PPs, and 1249 Assistant PPs working in 497 courts across the country.<sup>45</sup>

#### 4.2.3. Defense Advocates

A defense advocate, also known as a defense lawyer or defense counsel, is a legal professional who specializes in representing individuals accused of committing crimes. His role is to provide legal counsel, support, and representation to the accused during the criminal justice process. Defense advocates play a crucial role in protecting the rights and interests of their clients. They meticulously analyze the case, gather evidence, interview witnesses, and develop a strong defense strategy to defend the interests of their clients. The role of a defense advocate extends beyond the courtroom. They provide legal advice, guidance, and support to their clients, explaining the legal process, potential consequences, and available options. They work diligently to protect their client's interests and strive for justice. To become eligible as a defense advocate in Bangladesh, an individual must initially join the roll,<sup>46</sup> by completing the examination administered by the Bangladesh Bar Council.<sup>47</sup> Further, to practice as an advocate, a person needs to avail of the membership of a District Bar Association.<sup>48</sup> Currently, there is a District Bar Association in every District of Bangladesh. There is also a Supreme Court Bar Association for admitting members to practice in the Supreme Court of

---

<sup>39</sup> Ali Akkas (n 23) 187.

<sup>40</sup> *ibid*.

<sup>41</sup> CrPC 1898, s 492 (1).

<sup>42</sup> CrPC 1898, s 492 (2).

<sup>43</sup> CrPC 1898, s 493.

<sup>44</sup> Md Sanaul Islam Tipu and Ashif Islam Shaon, 'Why we need an independent public prosecution service' (*dhakatribune.com*, 6 Jul 2017) <<https://www.dhakatribune.com/bangladesh/2017/07/06/need-independent-public-prosecution-service>> accessed 14 Apr 2023.

<sup>45</sup> The Lawyers & Jurists, 'Bangladesh Prosecution System' (*lawyersnjurists.com*) <<https://www.lawyersnjurists.com/article/bangladesh-prosecution-system/>> accessed 23 Jun 2023.

<sup>46</sup> Bangladesh Legal Practitioners and Bar Council Order 1972, Rule 2(a).

<sup>47</sup> Bangladesh Bar Council, 'Bangladesh Bar Council Constitution' (*barcouncil.gov.bd*) <[tinyurl.com/23vrc673](https://www.tinyurl.com/23vrc673)> accessed 23 Jun 2023.

<sup>48</sup> *ibid*.

Bangladesh.<sup>49</sup> After fulfilling the necessary selection criteria and practicing in the subordinate courts for at least two years, an advocate becomes eligible for enrollment as an HCD advocate.<sup>50</sup> After accumulating a minimum of five years of practice in the HCD, an advocate becomes eligible for appointment as an advocate for the AD.<sup>51</sup>

### **4.3. Corrective System: The Lighthouse**

The corrective system, also known as the correctional system, is a fundamental component of the CJS of Bangladesh. It encompasses various institutions and programs aimed at the rehabilitation, punishment, and reintegration of individuals who have been convicted of crimes. The corrective system includes prisons, probation, parole, and child development centers. The system's primary objectives are to ensure public safety, deter future criminal behavior, and promote the rehabilitation and reformation of offenders. Through a combination of punishment, treatment, and support, the corrective system plays a pivotal role in addressing the needs of the offenders and facilitating their successful reintegration into society.

#### **4.3.1. Prisons Division**

The initial establishment of the first prison in this region of Bengal dates back to 1788, which was initially established as a solitary criminal ward. Subsequently, four additional prisons were founded in Dhaka, Rajshahi, Jessore, and Cumilla.<sup>52</sup> In the year 1929, the Rajshahi and Dhaka prisons underwent upgrades and were designated as 'Central Jails'. Following the Liberation War of 1971, Bangladesh Jail (BDJ) embarked on a new phase, and currently, there exist 13 Central Jails and 55 District Jails across Bangladesh.<sup>53</sup> The Prisons Directorate, an integral component of the CJS, operates under the jurisdiction of the Ministry of Home Affairs and maintains significant importance.<sup>54</sup> Within the Prisons Division, there subsists a Prison Headquarters along with seven Divisions of Prisons Departments, encompassing a total of 68 correctional facilities. The overarching vision of the BDJ is to ensure the safety and enlightenment of the inmates.<sup>55</sup> In Bangladesh, the governance of prisons is regulated by legislation called the *Prisons Act 1894*, which serves as a regulatory framework for the management and administration of correctional facilities.<sup>56</sup> The said Act outlines the rights, duties, and responsibilities of prison authorities, staff, and inmates. It establishes procedures for the classification, treatment, and discipline of prisoners, as well as

---

<sup>49</sup> A. B. M. Mafizul Islam Patwari, *Legal System of Bangladesh* (Dhaka, Humanist and Ethical Association of Bangladesh 1991) 106.

<sup>50</sup> Advocate Shoaibur Rahman Shoaib, 'Type of Advocates and Enrollment Procedure' (*LawyersClubBangladesh.com* 2019) <<http://lawyersclubbangladesh.com/en/2019/07/15/types-of-advocates-and-enrollment-procedure/>> accessed 30 Sep 2023.

<sup>51</sup> The Appellate Division Rules 1988, Order IV, Rule 3.

<sup>52</sup> Department of Prisons, Government of the People's Republic of Bangladesh, 'Bangladesh Jail at a Glance' (*prison.gov.bd*, 2023) <<http://www.prison.gov.bd/site/page/fe59cbdd-ae6b-4df7-a619-ec43bb639583/>> accessed 29 Jun 2023.

<sup>53</sup> *ibid.*

<sup>54</sup> *ibid.*

<sup>55</sup> *ibid.*

<sup>56</sup> The Prisons Act 1894.

guidelines for health and hygiene within prison premises. It also addresses matters related to prison administration, inspection, and the establishment of advisory committees. Thus, the Act plays a significant role in ensuring the proper functioning and accountability of prisons in Bangladesh.

#### 4.3.2. Child Development Centers

The 'Juvenile Justice System' (JJS) primarily encompasses adjudicating justice for minors accused of committing crimes.<sup>57</sup> To strengthen the functioning of the JJS, Bangladesh has instituted specialized facilities known as the 'Juvenile Detention Centers' (JDCs).<sup>58</sup> The facilities, known as the JDCs, are also identified as the 'Child Development Centers' (CDCs) under the definition provided in the *Children Act* (CA) 2013.<sup>59</sup> According to section 59 of the Act, it is explicitly stated that the government bears the responsibility of establishing and sustaining a sufficient quantity of 'Child Development Centers'. These centers are specifically designed to accommodate, correct, and support the development of children who have been ordered to be detained during judicial proceedings or are currently under trial. The establishment of these centers considers gender disaggregation to ensure appropriate accommodation and care for both male and female children.<sup>60</sup> In Bangladesh, individuals who are under the age of eighteen are considered children.<sup>61</sup> Therefore, only offenders who fall within this age bracket will be accommodated in the CDCs. Currently, there are three 'Juvenile Development Centers' (JDCs) in Bangladesh – two in Gazipur and one in Jessore. Among the two JDCs in Gazipur, the one which is at Tongi accommodates 300 juvenile males, while the other at Konabari serves 150 female juveniles. Moreover, the Jessore JDC has facilities for 150 juvenile male inmates.<sup>62</sup> As per the guidelines provided by the Ministry of Social Welfare, the JDCs are entrusted with the responsibility of providing care, protection, sustenance, medical assistance, education, training, counseling, and rehabilitation for juvenile offenders. The operations of the JDCs align with the stipulations outlined in the CA 2013, the National Children Policy, and the *Convention on the Rights of the Child* (CRC) 1989.<sup>63</sup>

#### 4.3.3. Probation and Parole

Probation and parole are rehabilitative measures within the CJS that aim to reintegrate offenders into society while ensuring public safety. Probation is a community-based alternative to incarceration, where individuals are supervised and required to adhere

---

<sup>57</sup> Sumaiya Khair, 'Juvenile Justice Administration and Correctional Services in Bangladesh: A Critical Review' (2005) 2 *The Dhaka University Studies* 1.

<sup>58</sup> Shohel Mamun and Tauhid Zaman, 'Juvenile Development Centers or Torture Cells?' (*dhakatribune.com* 19 Aug 2020) <<https://www.dhakatribune.com/bangladesh/nation/2020/08/19/juvenile-development-centres-or-torture-cells>> accessed 27 Feb 2023.

<sup>59</sup> The Children Act (CA) 2013, s 59; See also Editorial, 'Govt Must Meet Standards on Child Development Centers' (*newagebd.net*, 04 December 2022) <<https://www.newagebd.net/article/188153/govt-must-meet-standards-on-child-development-centres>> accessed 10 Jun 2023.

<sup>60</sup> CA 2013, s 59 (1).

<sup>61</sup> CA 2013, s 4.

<sup>62</sup> Mamun and Zaman (n 58).

<sup>63</sup> *ibid.*



to certain conditions, such as regular reporting to a probation officer and engaging in rehabilitation programs. Parole, on the other hand, refers to the release of prisoners before the completion of their full sentence, under specific conditions and continued supervision. Both probation and parole provide opportunities for offenders to demonstrate their rehabilitation and successfully reintegrate into society, while also holding them accountable for their actions.

The concept of probation in the penal system of Bangladesh signifies the rehabilitative aspect of the CJS.<sup>64</sup> Courts in Bangladesh utilize probation as a non-custodial alternative to imprisonment, serving as a measure that avoids confinement.<sup>65</sup> Probation is commonly defined as a court order that grants conditional discharge to an offender or requires them to be placed under the supervision of a Probation Officer (PO).<sup>66</sup> A PO is appointed<sup>67</sup> by the Department of Social Services (DSS) of the Ministry of Social Welfare. Every PO must function within a specified local region or concerning particular probationer cases or categories as designated by the Director of Social Welfare.<sup>68</sup> Typically, the officer is empowered to conduct a social investigation, monitor the probationer's progress, and provide periodic reports on the probationer's status to both the Court and the DSS.<sup>69</sup> Section 5 of the CA2013 also establishes the inclusion of POs.<sup>70</sup> The object of probation is the obviation of offense and recidivism. Besides, it promotes the rehabilitation, non-stigmatization, and reintegration of offenders, while also working towards providing restitution to the victims.<sup>71</sup>

Granting parole to prisoners is a highly significant yet frequently debated strategy aimed at alleviating the burden on correctional facilities.<sup>72</sup> Parole refers to the act of releasing an offender from a penal or rehabilitative institution under the supervision of correctional authorities, allowing them to reintegrate into society as deemed suitable.<sup>73</sup> Thus, as a mechanism, parole strives to facilitate the reintegration of inmates into society as law-abiding individuals.<sup>74</sup> However, if a parolee breaches any of the

---

<sup>64</sup> Judicial Portal Bangladesh, 'The Probation System of Bangladesh' (*judiciary.gov.bd*) <<https://www.judiciary.gov.bd/en/probation-services>> accessed 23 Jun 2023.

<sup>65</sup> N. V. Paranjape, *Criminology and Penology* (Allahabad: Central Law Publications 2009) 480.

<sup>66</sup> Probation System (n 64).

<sup>67</sup> Section 12 of the Probation of Offenders Ordinance 1960 also addresses the appointment of probation officers. The first provision of this section states that the individual designated as a probation officer in a probation order could be anyone appointed for this role by the Officer-in-charge. This allows flexibility in the selection of probation officers. The second provision emphasizes that the appointed probation officer must meet the qualifications prescribed by rules established under the said Ordinance. This ensures that the probation officer possesses the necessary qualifications and expertise to effectively carry out their duties. The third provision highlights that while fulfilling their responsibilities under a probation order, the probation officer is subject to the supervision and control of the Officer-in-charge. This ensures accountability and oversight in the performance of their duties.

<sup>68</sup> Probation System (n 64).

<sup>69</sup> *ibid.*

<sup>70</sup> This section pertains to the selection and deployment of probation officers in each district, upazila, and metropolitan area to carry out their responsibilities by the provisions of the CA 2013.

<sup>71</sup> Probation System (n 64).

<sup>72</sup> Paranjape (n 65) 463.

<sup>73</sup> Paranjape (n 65) 464 citing J. L. Gillin, *Criminology and Penology* (3<sup>rd</sup> edn, Praeger 1971) 339.

<sup>74</sup> Paranjape (n 65) 463.

imposed conditions, the release of the offender is suspended.<sup>75</sup> Currently, there is no dedicated legislation on parole in Bangladesh. However, parole is occasionally granted on humanitarian or political grounds, although some remote provisions can be found in the *Probation of Offenders Ordinance 1960* and the *Prisons Act 1894*.<sup>76</sup> According to the revised Parole Policy of 2016, as stated by the government, a prisoner may be granted parole for a specified period under certain circumstances. These circumstances include the death of a close relative, a court order, or a decision made by the government. The DM is the designated authority responsible for granting parole in such cases.<sup>77</sup> While on parole, the prisoner will be placed under police supervision, and the duration of the parole period will be determined based on security considerations and travel distance. Generally, the parole period should not exceed 12 hours, unless otherwise decided by the government.<sup>78</sup> It is important to note that admission of guilt is not a prerequisite for the offender to be granted parole.<sup>79</sup>

## 5. Conclusion

In conclusion, this article provides a comprehensive overview of the various institutions comprising the CJS of Bangladesh. By exploring the key elements, such as law enforcement agencies, the judiciary, prosecution services, and correctional facilities, this study illuminates their organizational structures and interconnectedness. Employing a descriptive approach, this research paper objectively documents and presents the institutional frameworks that form the backbone of the justice administration in Bangladesh. Moreover, this study serves as a foundational resource, offering a deep understanding of the institutional landscape of the CJS. Hopefully, it will prove invaluable to policymakers, legal practitioners, and researchers seeking to gain insights into the system's operation.

---

<sup>75</sup> Paranjape (n 65) 464 citing Edwin H. Sutherland and Donald R. Cressey, *Principles of Criminology* (6<sup>th</sup> edn, Lippincott 1960) 575.

<sup>76</sup> Kamal Ahmed, 'Parole Politics in Bangladesh and Legal Questions' (*en.prothomalo.com*, 03 Mar 2020) <<https://en.prothomalo.com/opinion/op-ed/Parole-politics-and-legal-questions>> accessed 13 Jan 2023.

<sup>77</sup> *ibid.*

<sup>78</sup> *ibid.*

<sup>79</sup> *ibid.*