

ISSN: 2309-4915

P S C JOURNAL

Volume 9 Issue 2 Jul - Dec 2022



**A Professional Journal of
Police Staff College Bangladesh**

P S C JOURNAL

Volume 9, Issue 2, Jul-Dec 2022



Academic & Research Wing
Police Staff College Bangladesh
Mirpur-14, Dhaka-1206

P S C
JOURNAL

Volume 9, Issue 2, Jul-Dec 2022

Chief Patron

Dr. Mallick Faqrul Islam BPM, PPM
Police Staff College Bangladesh

Patrons

Mr. Md. Rezaul Haq, PPM
Vice Rector & SDS (Academic and Research)

Dr. A. F. M. Masum Rabbani
SDS (Training)

Editorial Advisory Board

Professor Dr. M. Abul Kashem Mozumder
Pro-Vice Chancellor
Bangladesh University of Professionals (BUP)

Professor Shamsuzzaman Khan
Director General
Bangla Academy

Muhammad Nurul Huda
Former Inspector General, Bangladesh Police

Dr. Syed Manzoorul Islam
Professor, Department of English, University of Dhaka

Professor Ishrat Shamim
Department of Sociology, University of Dhaka

Editorial Board

Chief Editor

Mr. Md. Mehedul Karim, PPM
MDS (Research & Publication)

Editor

Mr. Mohammad Shahjahan, PPM (Bar), Ph.D.
Director (Research & Publication)

Joint Editor

Ms. Tahura Jannat
Deputy Director (Research & Publication)

Asst. Editor

Mr. Siam Rahman
Assistant Director (Research & Publication)

Editorial Members

Mr. Md. Matiur Rahman Sheikh
MDS (Admin & Finance)

Mr. Md. Golam Rasul
MDS (Academic)

Mr. Mohammad Jahangir Hossain
MDS (Training)

Mr. Md. Sibgat Ullah, PPM
Director (Administration & Finance)

Mr. Md. Iqbal Hossain
Director (Curriculum)

Mr. Sufian Ahmed
Director (Academic)

Mr. Md. Hatem Ali
Director (Training)

Ms. Afroza Parvin
Director (Overseas Programme)

Mr. Md. Sohel Rana
Director (Project and Development)

Subscription: Per Issue Tk. 400/- US\$ 20 (Postage Included)

Correspondence: The Editor, PSC Journal, Police Staff College Bangladesh
Mirpur-14, Dhaka-1206, Bangladesh, Tel: +88-02-41000512
E-mail: dc_shahjahan@yahoo.com, Website : www.psc.gov.bd

No Part of this publication may be copied or reproduced without prior written consent from the editor. The Editor and/or Editorial Board does not bear any responsibility for the views expressed by the contributors.

Contributors

- 1 Md. Abul Kalam Azad**
The Pivotal Rudiments that Shaped Modern Policing in the Subcontinent
- 2 Al Asad Md. Mahfuzul Islam**
Safe Cyberspace for Women and Children in Bangladesh: Searching for Effective Policy Option
- 3 Sahely Ferdous**
Counter Cyber Attack: Issues to be considered before execution
- 4 M A Sobhan**
Necessity of Alternative Approaches in Crowd Management
- 5 Fahima Mallick Monmi**
Provisions of the UN Convention on Contracts for the International Sale of Goods and the Sale of Goods Act 1979: A comparative study
- 6 Md. Rezaul Haq, PPM**
Mohammad Shahjahan, PPM (Bar), Ph.D.
Land Conflict and Pattern of Crime in Bangladesh: A Study on Thakurgaon District

Chief Editor's Note

We are pleased to welcome you to the second issue of the PSC Journal for the year 2022. This issue hosts a number of articles which are primarily drawn from research works in the local context, with some generally applicable reflections in the fields of public-police partnership, cyber security and environmental protection, international law and the history of policing.

The first article sheds light on a relatively unexplored part of the history of policing in the subcontinent and beyond, providing a chronological portrayal of the development of modern policing from Mesopotamia to British India. For the most part, the development of modern policing in this region is fixated on the events after the middle portion of the 19th century. This article provides a look into a period of policing that has been given relatively less focus in contemporary literature.

The second article is an in-depth analysis on the particular concern with the cybercrime against women and children. This paper analyzes and explores best possible available policy options to protect and prevent citizens in the current scenario. The author assesses that establishing a “Police Bureau of Cybercrimes” is one of the best options in this regard.

The third article in the issue pivots around the question of conducting counter cyber attacks, focusing on legal, technical and risk factors. The study analyses the potential issues that states or organizations need to consider regarding the critical decision of conducting counter measures for ensuring security in cyberspace. It provides a timely reminder of the shifting security landscape and the need for awareness of counter cyber measures as a potential tool for ensuring security.

The fourth title discusses the modern methods and techniques for crowd management. The article explores possible alternatives to support the traditional methods of crowd control. The study analyzes scenario-based cases and discusses the merits of multiple methods of public order management, an issue of great significance for field-level law enforcers.

This issue's fifth entry is a study conducted to compare between the United Nations Convention on Contracts for the International Sale of Goods and the common law and Sale of goods Act (SOGA) 1979 of the United Kingdom. It provides a glimpse into the workings of international trade and its legal mandates.

The final entry of this issue relates to the issue of land conflict. Land-related disputes pose a major threat to social harmony and stability in almost the entirety of Bangladesh. This study focused on related cases lodged over a two-year period in a northern district. It was found that neighbours and relatives are pitted against each other in these legal tussles over land. Speedy and efficient delivery of justice, improvement of government services and enhancing social capital are the way forward for better management of land-related conflict.

Behalf of the editorial team, I express my earnest hope that the articles published in this issue will contribute to better understanding of the issues involved, and add to the global discussion centred on critical issues of the present-day world. I wish all the very best for our esteemed readers.



Md. Mehedul Karim PPM

Member Directing Staff (Research & Publication)

Police Staff College Bangladesh &

Chief Editor, PSC Journal

Contents

Title	Page No.
Md. Abul Kalam Azad The Pivotal Rudiments that Shaped Modern Policing in the Subcontinent	01-24
Al Asad Md. Mahfuzul Islam Safe Cyberspace for Women and Children in Bangladesh Searching for Effective Policy Option	25-66
Sahely Ferdous Counter Cyber Attack: Issues to be considered before execution	67-74
M A Sobhan Necessity of Alternative Approaches in Crowd Management	75-86
Fahima Mallick Monmi Provisions of the UN Convention on Contracts for the International Sale of Goods and the Sale of Goods Act 1979: A comparative study	87-100
Md. Rezaul Haq, PPM Mohammad Shahjahan, PPM (Bar), Ph.D. Land Conflict and Pattern of Crime in Bangladesh: A Study on Thakurgaon District	101-112

The Pivotal Rudiments that Shaped Modern Policing in the Subcontinent

Md. Abul Kalam Azad¹

Abstract: Police is the agency responsible to enforce the law to ensure the rule of law, maintenance of public order, and to safeguard and uphold human rights. The beginnings of police as a formal institution is not clear, rather its long past is vaporous and quite unknown. In recent times, police duties have been assigned explicitly as - prevention, detection, investigation of crime to respect the freedom, dignity, and rights of citizens. Police are also responsible for enforcing rule of law, maintenance of public order, regulation of traffic movement, denoting elementary duties. For these composition and development police took prolonged time and in this time, some historical rudimental and pivotal steps culminated police in today's modern shape. These historical rudimental and pivotal steps did not take place in a single day at single place. The modern police for its accumulation passed through many ages, multiple incidents and absorbed many dynasties' contribution.

Keywords: police history, evolution of police, civilization, society, modern police

Introduction

Police is the blind eye of the history (Reith, 1953) and are not linked or bridged among the scattered incidents, development, improvement, organization, initiation, structure, organogram, induction or any other issues related with police before 'The London Metropolitan Police Act-1829'. Undoubtedly this is a failure of the police history and policing would be ill-served if there is dearth in the study of its history (Mathur, 1991, P.15.).

Police Science is now a significantly studied discipline (Lee Melville, 1901, p.VII.). Patrick Colquhoun, one of pioneers of the London modern police suggested inducing the policing as 'Police Science' (Barrie, 2012, p.74.). Robert peel Bobby's philosophy 'the police are public and the public are police' (Barrie, 2012, p.74.) took the responsibility to keep the society in order even in London. This study is a step to find out those rudimental components during the embryonic stage of accumulation of policing.

After prolonged evolution now policing is recognized as discipline and for the first time this conceptual proposal to consider as 'Police Science' was given by the father of modern police Patrick Colquhoun. At present world 'Police Science' is being studied in many institutions, academies, universities and colleges as

1. Additional Superintendent of Police, Police Bureau of Investigation (PBI), Rajshahi

discipline in social science studies. But before the introduction of the London Metropolitan Police Act-1829, the structure of policing was amorphous and was not portrayed explicitly. After 'London Metropolitan Police Act-1829' police became well defined, structured, explicit, stratified and schematic hierarchical managerial structure. But to take this perpetuated shape police took a lot of dynastic regime's ruling, incidents and administrative policies from semiotic backdrop of nomenclature of policing.

The word 'police' is derived from Latin word 'politia' denoting the meaning of 'civil administration'. The word 'politia' goes back to the Greek word 'polish' or 'city'. Etymologically the term 'police' can be seen as 'administration in a city'. With the changes of time the word 'politia' became French word 'Police' and the English was the first to use the word 'police' signifying the meaning 'civil administration' (Dempsey & Linda, 2005). It is important to find out the distinctive meaning of police. Primarily the word 'police' derived from Greek word 'polis'. The meaning of Greek word 'polish' is citadel or government centre of city-state.

According to Adam Smith 'police properly signified the policy of civil government, the regulations of inferior parts of government, cleanliness, security and cheapness or plenty (Dempsey & Linda, 2005). Police play the role of mediator between the complainant and accused, arbitrator and justice to settle the dispute. Police officers are appointed to apprehend who violate the rights of others and to bring them to the designated justice system and to consensual authority to sanction undesirable behavior (Scaramella et. al, 2010).

In England the body that enforces the law to maintain public order was named 'police'. The first modern police in England was 'Marine Police', established in 1798 to protect the merchandise in the port of London at Wapping (Lee, 1901, p.223.) besides river Thames (Scaramella et. al, 2010). As consequence and consecutively police finally emerged as state owned law enforcing authority in 1829 through 'the London Metropolitan Police Act-1829'.

Significance or Justification of this Study

For the recognition as academic discipline it is imminent to trace out the evolutionary semiotic backdrop. As academic discipline 'Police Science' has particular objects with theories, methods, specific technical terminologies, specific research scope, institutional recognition, accumulated specific subject matters and findings. But 'Police Science' has not been studied enough yet and has a lot of scope to be so with enriched historical background. As academic discipline 'Police Science' includes planning, organizational frame work, stratified staffing, directing and ordaining for operation, reporting and budgeting.

But the focal and centric subject matter of ‘Police Science’ is the historical evolutionary background that shape the policing organizational frame work. This study is intent to trace out those historical rudimental steps and incidents what agglutinated shape and frame of policing. Policing didn’t culminate at desideratum level in a day.

The history of gradual development of police is abstracted, vaporous and gloomy. The steps that played as congenial factors to portraiture the shape and organizational structure are not linked or bridged among the scattered incidents, development, improvement, organization, initiation, structure, organogram, induction or any other issues related with police especially before ‘The London Metropolitan Police Act-1829’.

Since the amorphous form to present explicit shape police took a prolonged period of time to be evolved to reach at desideratum structure. For this why it is momentous component of an academic discipline to trace out its embryonic form and evolution stages. The focal and centric subject matter of this study is to search the policies of historical embryonic background that played the role to shape the policing perpetuated form. This study is intent to trace out those historical rudimental policing policies over the ages’ civilizations.

Objectives of the Study

- (1) To trace out the administrative steps that crystallize the organizational frame and shape of police.
- (2) To explore the role of those steps that accelerated to form the organizational frame and shape of modern police.

Methodology

This study is historical document analysis type research. This study is conducted through the historical document analysis and research. To explore the objectives of the study the historical documents, books, journals and articles are studied and researched well. This analysis and study illustrates the historical and old data and documents. So almost all data are secondary. The historical documents are mainly descriptive. So the methodology is descriptive as well as analytical. This study explains the documents as secondary data and not based on numerical information.

The method of the study is as well qualitative type which explore some historical documents, reports, existing laws, rules, instructions, policies and the dynastic ruling regime’s decision. This qualitative study is also exploratory in nature as well. These data are collected from the documentary experience of the shifting society of ancient and middle age’s ecclesiastical period regimes. The driving factors,

phenomena, experiences, social values and codes of the then society are observed in-depth insight.

Discussion:

The Gradual Development of Policing throughout the Ages Since the amorphous form to present explicit shape police took a prolonged period of time to be evolved to reach at desideratum structure. For this why it is momentous component of an academic discipline to trace out its embryonic form and evolution stages. The focal and centric subject matter of this study is to search the stages of historical embryonic background that played the role to shape the policing perpetuated form. This study is intent to trace out those historical rudimental policing policies, mystical, incomprehensible and multitudinous kaleidoscopic incidents related with policing over the ages' civilizations.

The Code of Hammurabi

The concept of policing was seen in the pre-2100 BC in ancient Babylon Mesopotamia (Scaramella et. al, 2010). Police had been operated for the first time giving punishment to the criminal under the first written criminal law 'The Hammurabi Code' (Oliver, 2nd edition, p.3.). Since then it is perceived that 'the society is policed by the police' (Oliver, 2nd edition, p.3.) as well as it is believed that justice and strength go together and there is peace, which overriding good (Giriraj, Vol-1, 1999, p.2.). 'Hammurabi code' was depicted on diorite stele in 'Akkadian' or Semitic language that was spoken in ancient Mesopotamia. The Sumerian languages Akkadian and Aramic were ancestor of Hebrew and Arabic language. King Hammurabi claimed that this code was revealed from the Deity of Justice 'Shamash'. The way 'Hamurabi Code' used was the form of 'Police' of the than society (Champion & Hooper, 2003, P.46.).

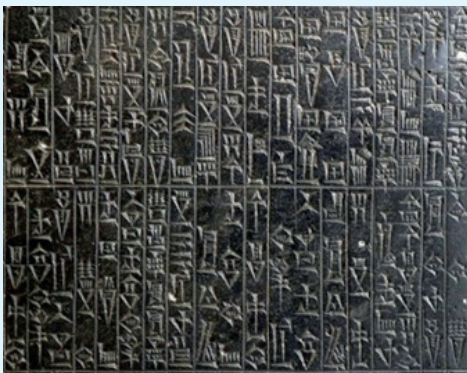


Figure 1: 'The Code of Hammurabi depicted in the photography of 'Diorite stele'



Figure 2: Depiction of King Hammurabi receiving Code from Deity Shamesrah

Praetorian Guard

For protection of King's Palace or the sentry or guard deployed in ancient Rome was Praetorian Guard as body guard to the Emperor and chief of the army of Roman empire (Champion & Hooper, 2003, P. 46.). Emperor Augustus (27 AD-14 AD) developed police in various way and was the first to organized Praetorian Guard as police (John Philip, 1977, UK, P.14.). The word 'Praetorian' derived from 'Pratorium' and 'Pratorium' was the name of tent. In 312 when Constantine, the great came in power, he dismissed this Praetorian Guard (Champion& Hooper, 2003, P. 46). This Praetorian Guard was highly efficient and qualified, may be considered as first professional police (Dempsey & Forst, 2005, p.5.).

Urban Cohort

The original word is 'Cohortes Urbanae'. Praetorian Guard directly played the role as police. The 'Cohortes Urbanae' performed the following four types of duties (Champion& Hooper, 2003, P. 5) -

- (1) Surveillance and apprehend the criminal
- (2) Controlling the street
- (3) Extinguishing or Fire Fighting
- (4) Participation in the war if Emperor desired

The main responsibilities of 'Urban Cohort' were to protect the city. The chief of the unit was called 'City Prefect'. The 'City Prefect' was the chief of city police (Dempsey & Forst, 2005, p.4.) as like as municipal police officer.

Vigiles

Roman Emperor Augustus was pioneering person who contributed a lot to shape the policing as organization. Emperor Augustus formed 'Vigiles' in Rome (Stead, John Philip, 1977, UK, P-14..) for the following responsibilities-

- (1) Regular patrolling on the streets (Philip, 1977, P-15.)
- (2) Detection the cause of fire and extinguishing fire (Philip, 1977, P-15)
- (3) To stop burglary, assault, any other petty crimes during night patrol, watching and surveillance (Dempsey & Forst, 2005, p.46)
- (4) In rural area 'Vigiles' dealt with medical treatment (Philip, 1977, P-15.)
- (5) Interrogation the criminal and played role as jailors (Philip, 1977, P-15)

The 'Vigiles' was separated unit from 'Praetorian Guard' or 'Urban Cohort' as independent command (Philip, 1977, P-16). English word 'vigilance' and

French word ‘Vigilante’ derived from the Roman/Greek word ‘Vigiles’ (Philip, 1977, P-16). The meaning of the word ‘Vigiles’ or ‘vigilia’ or ‘vigil’ is ‘awake and alert’ or ‘Keep watch and surveillance’ (John, John Ayto, Dictionary of Word Origins.) in English.

Prefectus Urbi

‘Prefectus Urbi’, the first paid public police office in the police history in ancient Rome Reynolds, 1928 and was in effect in 27 BC both in Greece and Rome. This ‘Prefectus Urbi’ was big in volume and patrolled on the street round the day (John, Dictionary of Word Origins.) for maintenance of security with Judicial and executive power (Dempsey & Forst, 2005, p.4.). It was in effect in Rome and Greece from 27 BC to 6 AD. It patrolled in the city during night as well to secure the citizens Reynolds, 1928

Lictor in Rome

‘Lictor’ is like an axe, symbol of power in first century AD. The designated ‘Lictor’ was appointed as security guard of the magistrate and brought the criminal to magistrate and charged for offence. ‘Lictor’ was used as the symbol of constitutionally state’s authority as well as today’s police. The ‘Lictor’ was bundle of rods tied by a red thong round the axe representing the authority of the magistrate and police. The magistrate getting ‘Lictor’ was empowered to give punishment including death penalty as his absolute authority (Dempsey & Forst, 2005, p.4.).



Figure 3: Lictor, the symbol of power.

Praetor Quaesitor and Questor

At the end of third century Roman Empire expanded extremely with multi-culture, religions, languages, clans and tribes. To formulate new laws to acclimatize with local customs of new Roman foreign colonies (Champion&

Hooper, P-46.) Roman Emperor appointed a judge designating 'Praetor' with local regulations and customs (Champion & Hooper, P-46). 'Praetor' had criminal jurisdiction and police power (Champion & Hooper, P-46). Sometimes the offender being accused appointed the defendant in favor of him to prove innocent. This defendant's was known as 'Quaesitor', denied the offender's guilt (Champion & Hooper, P-46) and played the role on behalf of state and prosecuted the case like today's Public Prosecutor (PP) in the criminal justice system (Champion & Hooper, P-46). In Roman Empire investigating officer was appointed designating 'Questor' or 'Tracker of Murderer' (Dempsey & Forst, 2005, p-4.).

Kin Policing

Kin policing is clan and tribal commune based policing through the community. This tribal and clan policing is referred by the British as 'Kin Policing' denoting kin and neighbor were responsible for watching their own relatives or kin when policing was needed (Archbold, 2013, P. 3.).

Kin policing was mostly community oriented policing in early Greece Commune, city, clan or tribe based (Champion & Hooper, P-44.). Main characteristics of the Kin Policing were person-owned, clan or tribal customs oriented and free from political institution (Champion & Hooper, P-44). In kin policing system the victim's family was empowered to bring the criminal before the then magistrate but the situation was lawlessness (Lyman, 1999, p-65.).

Lex Talionis in Abrahamic Religions

Abrahamic or Semitic religions mean the three Monistic cult's religion that are Islam, Christianity and Judaism or Zionism. Perception in the Abrahamic religion is that the genesis of policing is divine (Spellman, 1964, P-1.). 'Lex Talionis' is such a concept of philosophy in criminal justice system that signifies the equal retaliation or 'an eye for an eye' (Champion & Hooper, P-45). Retaliation is repayment that connotes 'An eye for an eye, 'A tooth for a tooth' and 'A nose for a nose'.

This 'Talion' is described in the 'Old Testament' or the 'Torah' or 'Talmud', of the Jewish religious law (halakha) and Jewish theology Divine book written in Hebrew. Talion was a warrior in ancient Babylon in Mesopotamia. Retaliation or repayment is 'An eye for an eye' (The Bible, Chapter Mathew, Verse-38-45). In the Bible Jesus is telling to disciples in the chapter of Methew (The Bible, Chapter Mathew, Verse-38-45) in the verses from 38 to 42. Again in the 'Book of Exodus', chapter 21, verses from 22 to 36 the law of retaliation is described as well (verses 22-36, chapter-21, The Bible, the Book of Exodus.)

In England in the middle age instead of ‘Lex Talionis’ they followed ‘Maegbote’ (Blood-feud)(Melville, 1901, p-11.) and in Islam ‘Al-Kisas’ (*The Noble Qur’an*, 2:178-179), the Law of Equality of punishment (The Noble Qur’an, 2:178-179) is the same things. Also in Surtul Ma’idah, verse no. 45 same issue is also revealed supporting ‘Lex Talionis’, ‘Maegbote’ (Blood-feud), and the retaliation law described in the Bible, ‘Book of Exodus’ Chapter-21, verses from 22 to 36. The verse in Suratul Ma’idah is (*Al-Quran, chapter-5, verse45.*) -

And therein We prescribed for them: A life for a life, and an eye for an eye, and a nose for a nose, and an ear for and eye, and a tooth for a tooth, and for other injuries equitable retaliation. And whoso waives the right thereto, it shall be an expiation for his sins; and whoso judges not by what Allah has sent down, these it is who are wrongdoers.

In Hadith Bukhari, No-4611 also like ‘Lex Talionis’ or ‘Al-Kisas’ or the Law of Equality of punishment is described (*Al-Hadith, Bukhari, No-4611.*). To make effective policing in the far past the Semitic or Abrahamic religion played most dominant role and same time tribal leader played significant role using like ‘LexTalionis’ policy in the far past (Oliver, 2nd edition, p-3).

One of Abrahamic religions Christianity expanded all over the world in the first century by the Roman Empire and Islam in seventh century by the Islamic Empire. Christian England as well follow the policy of ‘LexTalionis’ policing in the format of ‘Maegbote’, ‘Manbote’ and ‘Mutilation.

Maegbote: ‘ Maegbote’ is blood-Feud and this blood-feud would receive the ‘next-of-kin’ to compensate of the victim and this fines payable in the Shape of amercements (Melville, 1901, p-11).

Manbote: ‘Manbote’ is the honorarium of the manpower employed by the ‘Sherif’, the chief of the then police in England. Manbote is levied from the convicted or accused (Melville, 1901, p-11).

Mutilation: Mutilation is deformation, disfiguration or deface of the offender or convicted. Even sometimes it was given red-hot-iron on the brow.

The Draconian Code

Athens is the place where police born first getting police regulation and law (Champion & Hooper, P.44.) under the King Draco who developed law in 621 BC and according to his name this code was known as ‘Draconian Code’(Champion & Hooper, P.44). This Code was notorious as harsh and severely effective. After 25 years formulation of this law, in 594 BC there was a revolution against it under the leadership of Philosopher Solon. It is said that this law was written with blood symbolizing of tyrannical rule in Athens (Champion & Hooper, P.44).

Uniformity in the Policing system of ancient Rome

Augustine Caesar and Julius Caesar were renowned pioneer for the development and reformation in policing. Roman Empire had well organized police to uphold law and order over the empire with stable, safety, Plenty and Cleanliness in good police (Champion & Hooper, P.44). Roman Emperor Augustus reorganized police naming 'Praetorian Guard' in 27 BC (Champion & Hooper, P.44). The



Figure 4: Toga, the uniform of legion police (Military police) in ancient Rome

'Praetorian Guard' lived in their own dwelling having swelling dress named 'Togas' and their swords were concealed under the 'Togas' (Davies, P.14). To live in a common place together in a body and to wear same dress for uniformity was great development for policing.

The First Police Commissioner in Rome

Emperor Augustus appointed Gaius Calpurnius Piso as 'City Prefect' in city Rome who was as like today's Police Commissioner (Champion & Hooper, P.47.) in 13 AD. Gaius Calpurnius Piso was the first Police Commissioner in the history police (Davies, P.18.).

Questern Paraciddi in Rome

In Rome detective police was appointed to find out the murderers designating 'Questern Paraciddi' (Giri Raj, 1993, P.8.). The 'Questern Paraciddi' arrested the accused and presented before the assembly for public trial. The assembly of the aristocrats' people took decision about the accused.

Manu Smiriti in India

'Manu Smiriti' was first police law in Indian sub-continent. The Code of Manu is described to be the law of the state and the monarch to impose punishment to

the criminals (Champion & Hooper, P-52.). Policing was operated according to the 'Manu Smriti' in those days in ancient India.

The Leges Henrici in England

In 1166 AD the king Henry-I introduced new legal code named 'Leges Henrici (Champion & Hooper, P-52) dividing England into 30 judicial districts and appointed chiefs to ensure law and order and peace of the King. The appointed chief of the districts took the crime as 'Breach of Law against King'. This division created districts for the first time in the history of administration and is in effect till today over the world. This 'Leges Henrici' system significantly contributed in the development of administrative infrastructure.

Degree of Crime and its Significance in England

King Henry-I developed British legal system dividing England into 30 parts and type of crimes were considered as breach of peace against the king such as murder, robbery, arson and counterfeiting currency and at the same time also considered as felony and major crime. The minor crime was considered as misdemeanor (Champion & Hooper, P-52). Misdemeanor means 'acts of bad behavior'. In ancient England crime were considered as three (Champion & Hooper, P-52) -

- (1) Treason: against the king.
- (2) Felony: Crimes are punishable with death and forfeiture.
- (3) Misdemeanor: Crimes are less serious than other.

Creation of Coroners in England

King Richard-I in 1194 appointed 'Coroner' in England to preserve the records of unnatural death in Shire as an administrative unit. The 'Coroner' investigated the cause of unnatural and sudden death and in 1275 King Edward-I specified the following duties for the 'Coroner' (Champion & Hooper, P-52) -

- (1) Maintenance of death records
- (2) Preservation of unnatural and sudden death
- (3) Handling the forfeitures to the king such as treason, custodian and criminal's property.
- (4) Keeping the records of lost and abandoned property
- (5) Managing the wandering animals
- (6) Handlings salvage of material

Policing in Ancient India

In ancient India police were controlled with some social, local tradition and Kautilly's Arthashastra's policies. These were 'Dharmashāstra', 'Dharmaśāstra', 'Dharma Sutra', 'Dandaniti' and 'Rajdharma'. These policies established peace and security in India in the early age.

Contemporary Policing during the time of advent of Islam in Jazeeratul Arab or Arabian Peninsula

Before resalat (Prophethood) of Muhammad (pbuh) organized 'Hil-ful-fudul' after the war of 'Harb al Fajjar' and this was aiming to uphold the amity among the tribes in the 'Zaziratul Arab' (Arabian Peninsula) when Mohammad was only 15 to 17 years old. Before 'Hizrat' (Migration from Mecca to Medina) no organized administration of statehood apparently was visible in Mecca or Medina.

After arrival in Medina under the agreement of 'Medina Sanad', (the Charter of Medina', 'Shāhīfat al-Madīnah', 'Mīthāq al-Madīnah' and 'Covenant of Medina' or the Medina Constitution) Islamic statehood took place for the first time in the history of Islam under the leadership of Prophet Mohammad (Peace be upon him) in 24th September, 622 AD. This was a significant development in policing.

The prime theme of policing in Islam is 'amar-bil-maruf-wa-al-nahy-an-al-munkar (Al-Qur'an 3:104) is revealed as divine ordinance. Later on sura 'At-Tarif' or 'Al-Mutaffifeen' is revealed which indicated the 'curtailing the rights'. In this sura the word 'Mutaffifeen' is derived from the word of 'Tatfif' which denotes the meaning 'to give short measures in weight' (Shafi, Maulana, the Holy Quran, Sura At-Tarif or Al-Mutaffifeen, Vol-8, p.727).

In this chapter or Sura 'Al-Mutaffifeen' or 'At-Tarif' in the verse no. 1 to 6 are direct divine commandments to establish 'Hisbah' and 'muhtasib'. 'Hisbah' and 'muhtasib' denotes the meaning of Market Controlling Office and 'Muhtasib' is the in-charge of that office. The aims were to 'promote welfare and prevent evil'. This 'promote welfare and prevent evil' is outline of Police administration in those days (Al-Buraey, 1985, p.261.). In this formative stage Omar al Khattab's first policing step was to establish 'Hisbah' (Al-Buraey, 1985, p.262.).

Later on chronologically Policing related administration, Judicial and criminal procedure were created as like as Ahdash, Shurta, Waali, Amil, Diwan-al-Shurta, Shahib-al-Surta, Al-Ahdash, Shahib-al-Ahdash, Maun, Maun-al-Shurta, Harash, Shahib-al-Harash, Diwan-al-Hishba, Diwan-al-najarfil-mazalim.

Development of Policing During Sultani Regime in India

After military victory over Indian Territory the triumphant Muslim generals introduced Islamic welfare and benevolent administration in India. Criminal Judiciary System, Diwani (Revenue Collection Management) and Law and order Maintenance procedure were a complex and combined. The triumphant Muslim Sultan gradually separated these three organs of the state and introduced the following Policing.

The Hydayat-ul- Quaid or Standard Operating Procedure (SOP)

Sultan Sher Shah Shurif or mulated '*Hydayat-ul-Quaid*' asguideline or Standard Operating Procedure for maintenance of law and order .The Kotwal and the Faujdar had to follow this '*Hydayat-ul- Quaid*' .Under thisSOPKotwal and the Faujdar had to keep a large number of Spies to information (Giriraj, 1993, p.31.).The following instruction were In the '*Hydayat-ul- Quaid*' for good policing-

- (1) To enlist the Piada (Footnote) from each ward as a spy for reporting incidents of the area.
- (2) For collection true news '*Hydayat-ul- Quaid*' was used as in structional booklet for Faujdar and Kotwal.

At midnight they took a horse with your followers and patrol round the city and on the streets. In the lanes where they went with spies and they found dens of thieves, mischievous designs be nipped in the bud' (Giriraj, 1993, p.34.). Sher Shah Shuri divided the country into forty-seven units naming Cirkar (Corruptly spelt Sarkars) as alike as Division of today's. Each Cirkar (Corruptly spelt Sarkars) was divided into Parganas and each Pargana was divided into Thanadar. These divisions were due to facilitate the land revenue collection as well as crime control administration and detection crime (Bhattachatya, 1972, pp.825-26.).

Barqandazi Policing System

In this policing and criminal procedure system zamindari was a significant part andPikes and Barkandaz were the law enforcing authority under the supervision of Zamindars (Giriraj, 1993, p.48.). In the village level the village police was responsible for the maintenance of law and order under the supervision of village Headman was known as 'Muqqaddam' (Giriraj, 1993, p.48.). The word 'Barkandaz' comes from persian words 'barq' and 'Andaz'. 'Barq' means fire or lightning and 'Andaz' means thrower. So 'Barkandaz' denotes 'A thrower of fire or lightning. As a bearer of arms the police was called 'Barkandaz'

(Giriraj, 1993, p.48.). This ‘Barkandazi ‘policing and it continued till East India Company’s dual administration period (Curry, 1901, P. 31.).

Thana

‘Pargana’ was the administrative unit as like as today’s district. Thana was the smallest unit of administration as small part of Pargana. During British regime Thana was introduced as Police Station. On 7th November, 1792, the then Bengal Presidency Government of East India Company declared ‘Thana’ (Police Station) through Gazetteer notification. Then the jurisdiction of that Thana was ‘Ten Coss Square’ (one coss equivalent to tow miles) (Banglapedia, Voll-3, 2011, P.36.).

In Criminal Procedure Code-1898 it is said that ‘Thana’ or ‘Police Station’ was declared as ‘Police Station’ means any post or place declared generally or specially by the Government to be a Police Station and includes any local area specified by the Government in this behalf (Criminal Procedure Code-1898, section-4 (s). Etymologically the meaning of ‘Thana’ is place. In Afghan and Pakistan Pashtu language ‘thanara’ is a ‘Place of Courting’. In Pashtu language, where the criminal judgment or courting is performed is called ‘Thanara’.

Dr. Jadu Nath Sarker translated the word ‘thana’ as ‘Fortified Base’. Wilson said- ‘A station, a military post, a police station, under the native Government it was military post or garrison, a place sometimes with small fort, where a petty officer with a small irregular force was posted to protect the country, preserve the peace and to aid in making the collections.

In Bengal police jurisdiction is divided into Zillas and zillas were divided in to Thana. Each Thana was twenty miles square, under a Darogah. It denotes any police station, whether under a Dgarogah or a subordinate officer; also a village or station assigned to a invalid shipahis (Wilson, P.518.). ‘Thana’ is called simply ‘a police station’ or ‘a military post’ (Sastri, p.331.).

Thanadar

During Sultani regime the Persian suffix ‘Dar’ was added with ‘Thana’ and it was known as ‘Thanadar’. The ‘Thanadar’ was then the In-Charge of Thana or Police Station who is now known as Officer In-Charge of Police Station. Wilson said- ‘Thanadar is an officer In-Charge of a Thana, Formerly an officer under the Faujdar, employed, with a small irregular force, in protecting the country and enforcing payment of the revenue: a petty police-officer subordinate to a darogha (In corrupt spelling Daroga) (Wilson, P.516.). ‘Thanadar’ was also known as head of a police post (Radhika, 1998, Delhi, P.6.) as well as Officer in-charge (Curry, P. 21).

Thanadari

Thanadari is the then policing system within the Thana's jurisdiction. In 'Thanadari Policing System' Pikes, pyada, Pada and Pousbanus were the lowest rank police officer in the 'Thanadari Policing System'. Wilson said- 'Thanadari is the office or jurisdiction of a Thanadar' (Wilson, P.516.).

Daroga

'Daroga' is a word what's nomenclature is not patented yet regarding its genesis. In the medieval era the world political situation was so turmoil, volatile and the ruling dynasty was changing so rapidly that nothing was stable and public administration could not continue its sequences and succession. It is quoted in the Banglapedia published by Bangladesh Asiatic Society that this word 'Daroga' is Mongoloid origin and the Muslim specially the Mughal in India used this as the administrative term. Mongols imported this word from the Far East where they found the provincial Governor is to be called as 'Daroga' (Banglapedia, Vol-6, 201, P-115.). 'Daroga' is called Superintendent of Police as well (Venkatasubba, p.328.).

The Mongoloids occupied Moscow and appointed a governor designating 'Darogah'. As the Mughal had a relations genetically with the Mongols, they used to this position enormously in the vernacular administration. During the Nawab's regime 'Daroga' was the chief of Royal Stores, chief of law and order and even of Police station or Thana called 'Thanadar' (Banglapedia, Vol-6, 2011, P-115.).

In the book of 'A Dictionary of Indian History' it is cited that 'Daroga' is a Persian word denoting the meaning of 'Head'. During the British regime 'Daroga' was the chief of Police Station or Thana and the English version of 'Daroga' is Sub-Inspector (SI). For the first time the modern police began its journey during the Cornwallis (1786-93) who created Districts and Thanas and deployed Daroga' (Sachghidananda, 1972, P.287.). So far etymology of 'Daroga' is known, this is the genesis.

But Wilson said 'Daroga' is Hindustani word and derived from local dialects. According to him 'Daroga' is derived from Telegu, Maratha and Hindi oligo. The word 'Daroga' denotes the chief native officer in various departments under the native Governments, a superintendent, a manager, but in later times he is specially the head of a police station, custom and excise station. But now at present the term 'Daroga' is not used in legal literature though the general people still tend to call a 'Daroga' specially in the policing literature.

Sikkder and Sikkder-e- Sikkdaran

Sikk' (Corruptly spelt Shik, Shiq or Siq) is the Persian word denoting the meaning of a jurisdiction of small area like district of today. Wilson said- 'Shikk is a division, a fissure, A certain tract of country forming a collectorate, or an aggregate of land from which a certain revenue is collected' (Wilson, P.480.). 'Sikk' was absorbed into 'Pargana'. The administrative Chief or the Chief Police officer of this 'Sikk' was 'Sikkder' and the chief of Pargana was Sikkder-e-sikkdaran (Corruptly spelt Shiqdar-i-Shiqdaram). Sikkder-e-sikkdaran (The Chief Shiqdar-i-Shiqdaram) had control over Thanadar and Sikkder-e-sikkdaran was appointed by the Faujdar (Madan, 1980, p.7.). In comparison the Sikkder-e-sikkdaran was equivalent of Superintendent of Police (SP) and Faujdar was equivalent of Deputy Inspector General (DIG) of today.

Dad-i-Bak

Dad-i-Bak is also known as Amis-i-Bak performed like a City Executive Magistrate as like as Police Commissioner and Chief Metropolitan Magistrate simultaneously (Giriraj, 1993, p.29.). The Moqaddama or the Panchyat system in rural areas was in force parallel.

Chowki and Chowkidar

'Chowki' (Corruptly spelt Chouki/Chowki/Chokee/Chokee/Chokey/ Chowkey) is derived from the word 'Chauki' denoting the meaning square size place where anyone can stay on. Sanskrit word 'Chatuska'. 'Chowki' is the place from where the act of watching or guarding of property is operated. Sometimes police or customs officer, a guard or a watcher where are deployed is Called Chauki (Wilson, P.106.). 'Chauki' is called 'A Custom House' or 'A Station' as well (Gourlay, 1916, P. 100.). Radhika Singha told this as well (Radhika, 1998, Glossary Chapter P.XXVI.).

Many times Merchants and others in towns employed chokidars as private Watchmen and later the men of the watch and ward in the towns of Dacca, Patna and Murshidabad were termed chokidars' (Gourlay, 1916 P. 100.). In the medieval age Sher Shah Shuri introduced the 'Daroga-e-Dak-Chawki' to carry the government's documents, information and intelligence from one place to another place (Madan, 1980, p.9.). This concept was based on the 'Chawki' system as well.

The Panchyat

'Panchyat' is a customary indigenous village court system from the ancient memorable time in India. The 'Pancha' (Symbolically Five) was the supreme

deity. In course of time 'Pancha' was introduced as proverbial phrase in India. The 'Panchayat' was a village Counsel or spontaneously assembly or in which its judgments was regarded as decisive (Wilson, P.394.). Etymologically 'Panchayat' is a indigenous village court where the 'five men from the village get together for arbitration to solve their won problem'.

To make the Panchyat system effective circle system was introduced in the policing system under police circle officer in 1911 (Gupta, Bengal Secretariat press, Calcutta, 1914.). A strong recommendation was in the 'Police Commission Report-1902/3' to revive effective Panchyat system (Police Commission-1902/03, P. 29.). During the Mughal regime in the Panchyat system some village police were like Dusahs, Paskans, Nighabans, Goraites, Pausbanus, Harkara and Harees under Panchyat (Madan, 1980, p.8.).

Kotwal and Kotwali

'Kotwal' was an institution who policed the towns (Radhika 1998, Delhi, P.1.). The 'kotwal was a police chief and urban administrator (Radhika, 1998, Delhi, Glossary Chapter P.XXVI.). 'Kotwal' Policing system as institution was introduced in India by the Arab-Afgan feudalistic administration (Giriraj, 1993, p.28.). J C Curry compared Kotwal with present inspector and officer in-charge of a police station. During the time of Mughal regime Kotwal was the chief of city police and the city station was called 'Kotwali' police station and this legacy is still in force (Curry, 1901, P. 21.). The word is derived from 'Kot' which means the wall. Literally a Kotwali is a police station for walled city (Giriraj, 1993, p.28.).

In another description the word 'Kotwal' derived from the word 'Kottapal' (Giriraj, 1993, p.451.). Kotwal was under the supervision of (Madan, 1980, p.6.) as well as Faujdar. Turko-Afghan regime this military policing system under Kotwal and Faujdar was very much effective. Etymologically it is not clear about the genesis of 'Kotwal'. Some said, 'Kotwal' is Persian terminology. 'Kot' and 'Pal' form the word 'Kotwal'. 'Kot' means 'Fort' or secured place and 'pal' means 'protector'. So 'Kot' and 'Pal' denotes the meaning the 'savior of the fort'. During the Murya regime a police officer was in force name 'Kottapal'. In middle ages during the Muslim regime 'Kotwal' was derived from this 'Kottapal' (Altekar, p.167.).

Somebody said that 'Kotwal' is Muohammadan word (Mishra, 1992. 'Kotwal' is derived from 'Kottapal' during Emperor Akbor and at first it was 'Katwal'. 'Kottapal' 'Durga-pal' (Chattergi, 1961, P.17.) and 'Nagar-Pala' is equivalent to denote meaning. 'Nagar-Pala' and 'Kottapal' denote meaning 'The City Prefect of Police' (Mishra, 1987, P.36.). 'Nagar-pal' means the protector of the town or who protects the city (Mishra, 1992).

Gradually ‘Kot’ and ‘Pal’ words became known as Hindi to the Indians. But about the root of ‘Kotwal’ is fabulous. In another opinion the word ‘Kotwal’ derived from ‘Koth’ and ‘Pal’. ‘Koth’ means the ‘pile of guns kept by the off-duty sepoys’ ‘Pal’ means ‘keeper’. These two words formed ‘Kotwal’ (Razvi, 1961, p.27.). ‘kotwal’, ‘Nagarpal’ and modern ‘Police Commissioner’ denote the same meaning, designation and responsibilities (Mishra, 1992. Each ‘Kotwali’ under the ‘Kotwal’ was divided in to some parts, each parts was known as ‘Mir Mahalla’ and was supervised by a ‘Mir Mahalladar’ (Ghosh 1993, P.21.).

Fouzdar

‘Faujdar’ policing system introduced in India by the Arab-Afgan feudalistic administration that continued as succession during whole Muslim regime in India (Giriraj, 1993, p.47.). On 6 April, 1781 Mughal policing institution Kotwal and Faujdar was repealed and law and order maintenance responsibility was handover to the Company’s appointed European officer (Madan, 1980, p.15.). Faujdar- as administrative unit introduced by the Muslim rulers ensured peace, security and political stability (Giriraj, 1993. p.47.). ‘Fauj’ means force and ‘Dar’ means keeper.

So the word ‘Faujdar’ connotes the meaning as Keeper of the force. Faujdar played role as sole local agent of the ruling authority to subdue the rebellious against the ruling authority. The Faujdar used infantry as well as cavalry (Giriraj, Vol-1, New Delhi, India, 1999, p.55.) to help the Kotwal and if necessary and ensured proper policing for peace, justice and right as supervising authority at the ‘Sarkar (Corruptly spelt Cirkar) level (Bhattachatya, 1972, P.355.). The system of function of the Faujdar is called ‘Faujdari’. During the Company’s domination in Bengal the ‘Faujdari’ was re-shaped as ‘Faujdari’ activities’. Since then the criminal administration was treated as ‘Faujdar’ (Radhika, 1998, P.1.).

Begetting of policing under the British Company’s Zamindar.

The begetting of policing in Calcutta was on 24th August, 1690 with the arrival of Job Charnock at Sutanati as agent of the Company appointing 100 security guards (Nair, 2007, p.2 .) and making a thatched guardhouse. This was the first Police Station of Calcutta Policing (Chattopadhyay, 2013, P. 11.).

The company signed the Deed (Contract/Sanad/Parwana/Faraman/Bainama) on acquisition of rights of Zamindari on the three villages Sutanati, Gobindopur and Dihee Calcutta on the 9th November, 1698 and got inherent Zamindari responsibility to maintain tranquility, peace, law and order, judiciary as well as collection of land revenue. Under the Company’s Zamindari in 1703the following manpower were appointed (Chattopadhyay, 2013, P. 59.) -

Designation	Man Power	Gross Salary
Kotwal	1	4 (Four Rupees)
Peon	15	31 (Thirty one Total)
Paik	10	15 (Fifteen)

For the assistance of the Zamindar a native efficient and experienced man Nandaram Sen was appointed. Nandaram Sen experienced on local law, custom and called 'Deputy Zamindar'. This 'Deputy Zamindar' or 'Black Deputy' to the Company man.

The Company's Zamindari increased its policing manpower on 16th February, 1704 appointing the followings (Chattopadhyay, 2013, P. Introduction, vii) -

Designation	Manpower
Chief Peon	1 (One)
Peon	45 (Forty Five)
Chobdar/Scepter Bearers	2 (Two)
Goala/Cowman	20 (Twenty)
Total Manpower	68 persons

Johan Zephania Holwell, the Calcutta Zamindar appointed the following police manpower in 1752 under the Calcutta Zaminadari (Holwell, P.188.) -

Head Paik	1
Paiks	143
Night Guards	64

In a letter on March, 1758, from 'Court of Directors' of the East India Company ordered Calcutta Fort William to improve the law and order situation appointing a Kotwal prevailing the native establishment. To follow this instruction Company Zamindari appointed Major Alexander Macrabie as chief of Calcutta police designating the first Superintendent of Police. This post was recognized in 1778.

Regularization the post of Police Superintendent

After occupation of political power in Bengal the administrative decisions came from Court of Directors to re-shape the police administration in Calcutta. A Superintendent of Police in 1778 was appointed as 'Sherif of Calcutta Police' by Warren Hasting regularizing and appointing the following manpower in the Calcutta Policing (Chattopadhyay, 2013, P. viii (Introduction). & p.527) -

1. Chattopadhyay, Tapan, Kolkata & its Police; A History of City Police From Charnock's to Present Day, Naya Udyog, 2013, P. 523.

Name of Designation	Manpower
SP	1 (One)
Deputy or Asst. SP	1 (One)
Pike	700 (Seven Hundreds)
Thanadar	31 (Thirty One)
NaebThanadar	34 (Thirty Four)
Zamadar	2 (Two)

On 29th June, 1778 Company Government declared ‘A Rule, Ordinance and Regulations for the better Management of Police of Town Calcutta’. Calcutta High Court approved it on 25th July, 1778. Under this rule the first Superintendent of Calcutta Police Charles Stafford Playdell was appointed.

The 9th June, 1785 Calcutta Gazette, the Embryo of Police Station

The Company Government divided Calcutta city into 31 divisions under the same numbers of Thanadars later on this jurisdiction turned into police station. These police divisions were as follows (Chattopadhyay, 2013, P. 523).

Divisions of Police in Calcutta City in 1785

- | | |
|---------------------|---------------------------------|
| 1. Armenian Church | 2. Old Fort |
| 3. Chandpaul Gaut | 4. South of the Great |
| 5. Durrumtulla | 6. Old Court House |
| 7. Dumtulla | 8. Amragully & Punchanand Tulla |
| 9. China Bazar | 10. Chandnee Choke |
| 11. Trul Bazar | 12. GouhMah Poker |
| 13. Chuook Danga | 14. Simlah Bazar |
| 15. Lunluncah Bazar | 16. Molungah & Putool Dungan |
| 17. Cober Dinger | 18. BytaKhannah |
| 19. Sham Pucknuah | 20. Soam Bazar |
| 21. Pudda Puckreah | 22. Coomar Tully |
| 23. Joora Sanko | 24. Mutchua Bazar |
| 25. Jaun Bazar | 26. Dings Bangah |

-
- | | |
|---------------------|------------------|
| 27. SootanuttyColla | 28. Duoy Huattah |
| 29. Hanse Pookriah | 30. Colimbah |
| 31. Jora Bagaun | |

Later on and gradually the British Indian policing developed basing on this Calcutta City and Zamindari Police.

‘Police Commission-1860’:

After taking over the power the British Empire took almost more than one hundred years to bring the police in organizational shape through the formation of ‘Police Commission-1860’ that worked like a Semiotic Backdrop of Modern Police. In this context Napier’s role played a pivotal role. Charles Napier is called the ‘Father of India Police’ Cox, 1911. Napier took the initiative to intensify the reformation to institute the peel’s Irish Constabulary policing in India as he observed the success the policing in England under proper supervision. After a prolonged observation ‘Police Commission-1860’ was formed and police took like military organization, wore uniform being steady. The style of this police was like Irish Constabulary system (Edmond pp. 65-68.).

Through the ‘Police Commission-1860’ Police retained the followings:

- 1) Government’s salaried and will be on duty for 24 hours (Gourley, 1916, p.71.).
- 2) Police members will be uniformed and when be on duty must carry arms (Gourley, 1916, p.72).
- 3) Organizational shape, structure, controlling rules and internal department’s discipline like military under civil executive government (Gourley, 1916, p.72).
- 4) Police’s role will be preventive in nature (Gourley, 1916, p.72).
- 5) Unitary central command (Gourley, 1916, p.72).
- 6) Police will be subject to the Civil Government.
- 7) The village police to be used primarily as sources of information and not employed on executive duties (Curry, p.33.).

‘Police Commission-1860’ recommended police to be formed on the British Irish Constabulary model that was formed in 1829 through the ‘London Metropolitan Police Act-1829’ denoting organogramme, organizational structure, disciplinary supervision, policing duties and administration will be like British Irish Regular Constabulary system(Curry, pp. 33-34.).

Police Commission-1902/3

To make the police visible as ubiquitous embodiment in the government it was inexorable to re-arrange police through the 'Police Commission-1902/3' that erected the organizational and administrative structural frame of police administration in India to secure the unity of British Empire, identifying the general management system of policing (Edmond p.71.).

The summery of the 'Police Commission-1902/3' are almost like the followings (Giri Raj, 1993, p. 68.)-

1. Investigation will be given on Sub-Inspector and bellow. Mainly Sub-Inspector will be Investigation office.
2. Central training institution will be established.
3. Revised update pay commission will be established for all.
4. For improvement of policing all possible steps will be taken in times.
5. Promotion will be on basis of careful scrutiny.
6. Specialized police units will be formed.
7. New post will be created.
8. Police Circle will be in effect.
9. Disciplinary measures will be taken.

The recommendations of this police commission expedited to form the paramagnet shape of police organization in India and so it is said the Indian police is the creation of British Indian government (Curry, p.17.).

The 'Police Commission-1902/3' recommended the following ranks in the police (Police Commission-1902/3, Chapter-IV, Para-90, p.63.)-

- (1) Constable,
- (2) Head Constable,
- (3) Sergeants (European officers only),
- (4) Sub-Inspector (investigating officer),
- (5) Inspector,
- (6) Assistant Superintendent and Deputy Superintendent,
- (7) Superintendent,
- (8) Deputy Inspector-General,
- (9) Inspector-General.

Still now in the Sub-Continent including Bangladesh these stratified ranks and designations are in effect in the police organization.

Findings and Conclusion

The way of emergence of policing was always contentious whether it is local or international perspective (Mawby, 1999, p. 18). Police took a prolonged period to be evolved in the existing form though it is on the way to be perfected yet. The existing form of police we see now, didn't take shape in a day or spasmodically. No single theorist portrayed the shape of police nor did any school of thought speculate about the creation of police. It is stacked of thousands years' incidents, conflicts, experiments, administrative and dynastic rule that expediently acquiesced that tended to promote public security. Due to the derivation of thousand incidents and dynastic rule over the ages security perception changed continuously and these uninterrupted continual changes led the policing to the gradual evolution and development.

These thousands of incidents over the ages were not homogenous nor indigenous rather them being heterogeneous consolidated the alienated experiences to crystallize the perpetuated shape and structure of police organization. With the emergence of embryonic stage of modern state the ancient era in the police history ended in 1066 (Champion & Hooper, 2003, P.38.) and then King William Duke introduced new policing system. After that ruling regime applied dichotomy policy to control the society. In the middle age, police regulations to control the society used to be divine rituals and customs. 'Godly Discipline' (Barrie, 2012, p.45) and 'Sabbath Breach' (Barrie, 2012, p.45) are biblical ontologies that governed the Abrahamic Assyrian and Sumerian ancient society as police regulations. The 'Kirk Mechanism' (Barrie, 2012, p.45) or 'Calvinist Doctrine' (Barrie, 2012, p.45) in Scottish-British society played pivotal role to ensure the order and stability as policing in ecclesiastical period in Europe. Church dominated Parish police were regulated with the aforesaid divine rituals and customs to preserve the domestic tranquility.

Those amateur policing regulations didn't emerge spasmodically in the then society. Rather were in effect as criminal code for the meddlesome. From the immemorial time police started its journey and now are explicitly portrayed. The *Mutatis Mutandis* (Melville, 1901, p.226) 'London Metropolitan Police Act-1829' evaporated its amorphousness and caused the perpetuated organizational shape and structure to ensure the rule of law. Gradually, its effects were felt in policing in the subcontinent. Through these different forms of evolution in different periods, we got the policing structure of the present day.

References

- Al-Hilali, M. T., & Khan, M. (1996). *The noble Quran in the English language*. Saudi Arabia: Darussalam.
- Al-Buraey, M. A. (2013). *Administrative Development: An Islamic perspective*. Routledge.
- Altekar, A. S. (2002). *State and government in ancient India*. Motilal Banarsidass Publ. 1200 AD, MOTILAL BANARSIDASS, Publishers and Booksellers, Chowk Banaras, India, p.167.
- Archbold, C. A. (2013). *Policing: A text/reader*. Sage.
- Ayto, J. (1990). *Dictionary of word origins*. Arcade Publishing.
- Bangladesh Asiatic Society (2011). *Banglapedia*, 2nd Edition, Voll- 3rd, 2011.
- Barrie, D. (2008). *Police in the Age of Improvement: Police Development and the Civic Tradition in Scotland*. Routledge.
- Cox, E. C. (1911). *Police and crime in India*. S. Paul & Company.
- Bhattacharya, S. (1972). *A dictionary of Indian history*.
- Champion, D. H., & Hooper, M. (2003). *Introduction to American policing*. Mcgraw Hill.
- Chattergi, S. K. (1961). *The Police in Ancient India*.
- Chattopadhyay, T. (2013). *Kolkata & its Police; A History of City Police From Charnock's to Present Day*. NayaUdyog.
- Scaramella, G. L., Cox, S. M., & McCamey, W. P. (2010). *Introduction to policing*. Sage Publications.
- Criminal Procedure Code-1898, section-4 (s)
- Curry, J. C. (1901). *The Indian Police*.
- Darussalam, Suratul Baqara, Verse-178-179 (2:178-179)|
- Dempsey, J. S., & Forst, L. S. (2015). *An introduction to policing*. Cengage Learning.
- Ghosh, S. K., & Rustamji, F. K. (1996). *Encyclopedia of Police in India*.
- Gourlay, W. R. (1916). *A contribution towards A History of the Police In Bengal*.
- Gupta, J.N. (1914). *Report on the experimental introduction of the circle system into selected subdivisions of the presidency of Bengal*.
- Holwell, J. Z. (1774). *India tracts*. T. Becket.
- Lee, W. L. M. (1901). *A history of police in England*. Methuen & Company.
- Lyman, M. D. (1999). *The police: An introduction*. NJ: Prentice Hall.

-
- Madan, J. C. (1980). *Indian Police, Its Development Up to 1905: An Historical Analysis*. Uppal Publishing House.
- Mawby, R. I. (2013). *Policing across the World: Issues for the Twenty-first Century*. Routledge.
- Mishra, K. K. (1987). *Police Administration in Ancient India*. Mittal Publications.
- Mishra, R. (1992). *Police and social change in India*. Ashish Publishing House.
- Nair, P.T. (2007). *Origin of the Kolkata Police*.
- Oliver, W. M., & Oliver, W. M. (2004). *Community-oriented policing: A systemic approach to policing*. Upper Saddle River: Prentice Hall.
- Razvi, N. A. (1961). *Our Police Heritage: Saga of the Police Forces of Pakistan and India*.
- Reith, C. (1975). *The Blind Eye of History: A Study of the Origins of the Present Police Era*. 1952. Reprint. Montclair, NJ: Patterson Smith.
- Reynolds, P. B. (1928). The police in ancient Rome. *The Police Journal*, 1(3), 432-442.
- Sastri, K. N. V. (1939). *The Munro System of British Statesmanship in India*. University of Mysore.
- Shafi, M. (1998). *Maarifur Qur'an*. Maktaba Darul-Uloom Publisher, Karachi, Pakistan.
- Shah, G. (1993). *Image makers: an attitudinal study of Indian Police*. Abhinav publications.
- Shah, G. (1999). *Encyclopaedia of Crime, Police, and Judicial System*. Anmol Publications.
- Shah, G. (1999). *History and organisation of Indian police*. Anmol.
- Singha, R. (1998). *A despotism of law: Crime and justice in early colonial India*, 019564049-7.
- Spellman, J. W. (1964). *Political theory of ancient India: A study of kingship from the earliest times to circa AD 300*. Oxford, Clarendon Press.
- Stead, P. J. (Ed.). (1977). *Pioneers in policing* (No. 213). Montclair: Patterson Smith.
- The Bible, Chapter Mathew, Verse-38-45
- The Report of Police Commission-1902/3, Chapter-IV, Para-90, p.63.
- Wilson, H. H. (1855). *A Glossary of Judicial and Revenue Terms: And of Useful Words Occurring in Official Documents Relating to the Administration of the Government of British India, from the Arabic, Persian, Hindustání, Sanskrit, Hindí, Bengálí, Uriya, Maráthi, Guazráthi, Telugu, Karnáta, Tamil, Malayálam, and Other Languages*. WH Allen and Company.

Safe Cyberspace for Women and Children in Bangladesh: Searching for Effective Policy Option

Al Asad Md. Mahfuzul Islam¹

Abstract: Bangladesh is changing rapidly with an unprecedented economic growth and digital development. The expanding ambit of internet and the expeditious advancement of information and communications, emerging technologies and extensive dissemination of social media platforms offer new and creative opportunities in this age of 4th industrial revolution. However, these tools are also being used to hinder holistic development; harm and spread violence against women and children. The available statistics and perception shows decreasing trends of traditional patterns of crimes, and in the contrary, increasing trend of new forms of crimes in cyberspace, particular concern with the cybercrime against women and children. Different forms of cybercrimes hamper girls and women mental, social and psychological health, education that causes severe political implications, economic cost and social burden. This is a grave concern and challenge for everyone, including policy makers, administrators, police officers, and development partners.

To counter this systematic challenge, there is urgency for framing institutional arrangement for the greater good of the State and its citizens. Considering this essence and spirit, this paper analyzes and explores best possible available policy options to protect and prevent citizens, especially women and children from aggressive and pervasive cybercrimes. The question is, therefore, strengthening the existing mechanism, formulating new legislation, establishing police cyber support center for women and children or creating Police Bureau of Cybercrimes can solve the problem? Measuring all these options in different policy matrix, it is hereby assessed that Police Bureau of Cybercrimes is one of the best options. This policy recommendation also qualifies in terms of cost benefit, impact and risk factors analysis along with citizens' preference conducted by a survey to address the core problem.

Keywords: cyberspace, cybercrime, women and children, police, Digital Bangladesh

Introduction

Problem Statement

Bangladesh has significantly been accelerating unprecedented growth since the very dawn of 2009. This growth has already ensured the graduation from LDCs to developing country in the global economic landscape. Moreover, Bangladesh has improved its socio-economic scenarios in many respects, for example,

1. Superintendent of Police, Bangladesh Police

fulfilling most of the MDGs. We are now implementing SDGs aligned with our Perspective Plan 2021-2041, Vision 2041.

In this historic journey of development, both men and women of Bangladesh play a substantive role across home and abroad. The population curve shows that the ratio of men and women is 102.25:100 (BBS, 2012) which not only signifies a number rather it signifies our strength of development. In addition, inaugurating ICT as one of the core drivers of development, almost 80 percent women have been proactively engaged with cyberspace in different activities and perspectives.

In such a scenario, the question that leads many of us whether we can ensure safe cyberspace for our women and children here in Bangladesh in this digital age. Historically, women and children are somehow oppressed generally, particularly sexual abuse, harassment and discrimination. A number of initiatives has been taken to address this problem but still the problem is seemed acute and vulnerable.

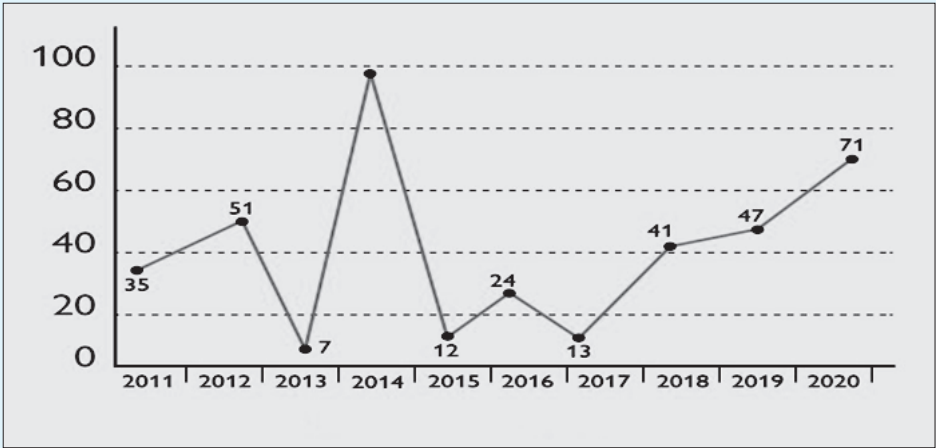
Despite having digital development and embracement of 4th Industrial revolution, there is no denying that safe cyberspace, particularly for women and children, is an ultimate desired aspiration, delineated as dignity and privacy of individual person in the Constitution of the People's Republic of Bangladesh, Election Manifesto (Bangladesh on the march towards Prosperity) of 2018 of Bangladesh Awami League, Vision 2041, Perspective Plan of Bangladesh 2021-2041 (Planning Commission, 2020), 8th Five Year Plan, Sustainable Development Goals, Delta Plan 2100, and obviously an urge of our digital time.

Why it is a problem and needs to be addressed

Bangladesh has been operationalizing Digital Bangladesh domain since 2009, spearheaded by the Honorable Prime Minister and Honorable Advisor to Honorable Prime Minister as a priority policy program. Digital Bangladesh has already been in place across the nation with magnificent outcome in communities. The total subscribers of mobile phone users till December 2020 here in Bangladesh is 170.137 Million (BTRC, 2020). The number of internet subscribers is 111.875 million till December 2020 (BTRC, 2020). However, using these platforms, we have been witnessing some cases of unwanted issues in regards with the women and children dignity and privacy in this emerging era of technologies. The harassment of women in our society has got a new dimension with the advancement of ICT, apart from easing lives, it has made the lives of many women disastrous on the other (Jerina, 2012). In 2015-2016, there was a sharp rise in the prosecution of child abuse image offences from 21,580 to 22,545. The same for obscenity offense prosecuted from 5,782 to 6,940 from 2015-2016 to 2014-2015 (Natasha, 2016)

There is a huge gravity of intensity of this pressing problem happening all around the world ,and Bangladesh is not far behind. According to different sources of statistics, we have found gigantic rise and projection of this crime against women and children in cyberspace across the countries and obviously in our beloved Bangladesh. Figure-1 shows the increasing number of reported incidents of online child abuse.

Figure-1: Increasing Trend of Online Child Abuse



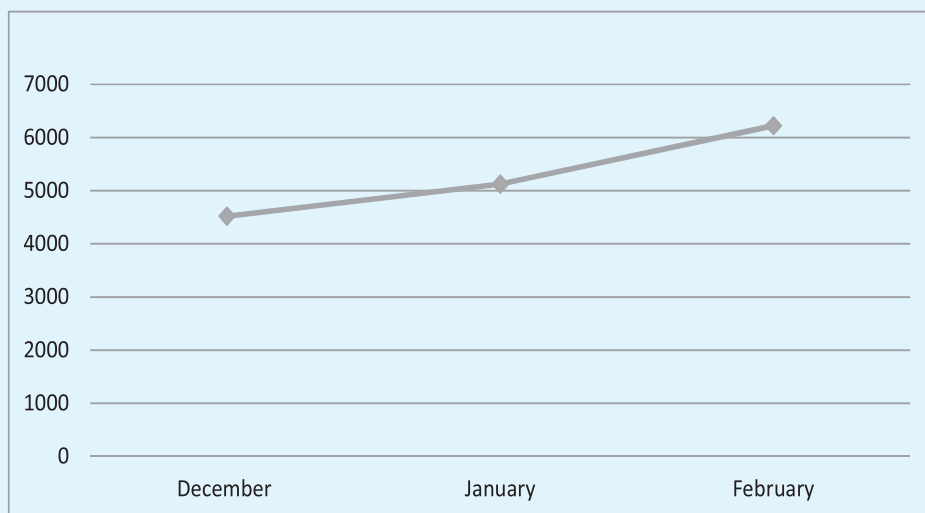
(Source: Ain O Salish Kendra (ASK) Child Rights Unit, 2020)

Historically, the reason for crimes against women in generally; abuse, harassment, bullying, stalking, discriminatory comments, fake ID, hack ID, blackmailing, obscene contents, and mobile harassment in particular. has been galloping. Figure-2 from Bangladesh Police Headquarters(PHQ) has indicated predominated increase of such crimes despite having relentless efforts to take legal measures. In December2020, PHQ received 4519 complaints, 7174 Face book based hotline call and 215 emails from women. In January 2021, it was 5123 and in February till 20th, the number was 6112.

In Bangladesh, there is a trend that victims usually do not want to report the cases due to social stigma and humiliation. Women and children, who has undergone such victimization, to some extend prefer to remain silent without reporting to police as there is no proper cyber law enforcement single tech-based institutional arrangement.

Considering these challenges, this policy paper urges to suggest the strategies for combating cybercrimes, particularly against women and children in cyberspace at national policy framework, such as Police Bureau for Cybercrimes with the emphasis of women and children as an alternative effective mechanism in streamlining with government sustainable development.

Figure-2: Number of complaints lodged at PHQ by women facing online sexual abuse and harassment



(Source: Police Headquarters, Dhaka)

Context Analysis

Background of the problem

Bangladesh development trajectory has magically been progressing with the aspiration of being a developed nation by 2041. With the unprecedented speed economic growth and technological advancement, new forms of illegal, unethical and unlawful activities are taking place. For example, the number of cybercrimes against women and children are increasing across globally and Bangladesh is not an exception. Traditional crimes pattern has remarkably changed with decreasing trend, on the contrary, technology-facilitated crimes, especially technology facilitated gender-based violence against women and children in cyberspace, has sharply been increasing.

Cybercriminals use the technological platforms to abuse people for undue financial benefit, revengeful activities, defamation, to ridicule and humiliate for self-employment. Perpetrators of abuses have been using technological, social media and some other dark net platforms to victimize women and children. (UK All Party Group on Parliamentary Group, 2017). Every year there are 11 suicide attempts by women due to cyber violence (Farhana, 2018). Pew Research Center (2014) reports that 73% of the adult internet users have witnessed somehow be harassed online and 40% have personally experienced through it (Fardaus, 2020).

It is important to note that tech companies are smarter and futuristic than police organizations, meanwhile, some criminals are taking this benefit to exploit women and children. Bangladesh has faced some major incidents, like Sonagazirape incident, Noakhali Rape Issue, sparked the hearts of common citizens and tried to blur the development image of our nation across the globe. In addition, the revenge porn, circulated in cyberspace, like Rajib-Prova incident, Mithila Fahmi incident, DC Jamalpur incident are some of the examples that require capacity building, police staffing with knowledge for preemptive actions.

Literature Review

There have been a number of studies, articles, researches, policy instruments in this discourse. Englander(2014) found that this problem remains as uneven and unattended. ECPAT (2005) study on Violence against children in cyberspace delineated for decision and policy-makers within governments at various levels and recognized to have responsibility to act for the protection of children and women in cyberspace. It also mentioned some governments have enacted and implemented well-articulated laws, policies and systems to protect children and women in cyberspace in recent years. University of Ljubljana (2020) urges governments to recognize its increasing trends and traditional taboos. Monika (2017) argued that cybercrimes against women and children emerges as a challenge for national and economic security.

Rajat (2013) argued for changes in legal and institutional system. European Institute for Gender Equality (2017) said that EU estimates shows that one in ten women have experienced some form of cyber violence since the age of 15. Buono (2012) studied the depth of cybercrimes in Europe and explored the establishment of European Cybercrime Center under Europol with changing trends and threats. Nadjiba (2018) concerned for lack of any model for cybercrimes against women. Millar and others (2021) in the report 'Gender Approaches to Cyber security: design, defense and response' proposed suggestions for gender specific framework for policy makers. Henry and others (2016) equal attention for policies, implementation and law enforcement agencies to address this problem.

Debasish(2015) pointed that cybercrime is the biggest challenge in Bangladesh and urged government for technical and logistics capacity building for cybercrimes. Sadik (2016) advised government for introducing specific policy and law for preventing cyber bullying in social networking platforms and also called for cyber bullying monitoring and prevention cell in each police station in Bangladesh. Samia and Others (2017) studied current scenarios of cybercrimes against women in digital platforms and recommended for new agency to reduce the threats. Sushmoy and others (2018) suggested for public private

partnership and more government budgetary allocation for tackling cybercrimes. Mahboob(2016) had a comparative study on cybercrimes and found the lack of specialized bureau for cybercrime in Bangladesh Police.

ICT Policy (2002) ensured use of ICT for citizens safety and property. The Internet Crime Report (2019) stated that cyber criminals are getting so smarter that it has become harder even for FBI to distinguish fake from real and henceforth justified the establishment of FBI's Cyber Bureau. A discussion paper on cyber violence against women and girls based on UN Broadband Commission (2015) urged every stakeholder to take appropriate measures to stop violence against women and girls in cyberspace. UNDOC Comprehensive study on cybercrime(2013) responded for a effective legal framework for police to transform from offline mindset to online set up. The Cybercrime Convention(2001) reaffirmed that State parties shall adopt legal and any other measures to stop cybercrimes.

The United Kingdom (2009) launched The National Centre for Cyber stalking Research (NCCR) in partnership with National Police Chief Council (NPCC) and advised Police and All Parliamentary Group for further policies and measures. From July 2017, Slovenia will launch the project 'CYBERVAW', which aims to develop awareness-raising and education activities that spread a clear message of zero tolerance to VAWG, with a specific focus on prevention of gender-based cyber violence and harassment as a form of VAWG.

This brief literature review candidly suggests us that there are potential knowledge gaps in this field. Therefore, the policy understanding and growth remains slower in this particular issue

Why it is important for Bangladesh to address cybercrime

The crime dynamics have changed. In recent times, State Security and sustainability mostly depends on the measure of the cyber security. In the history of cyberspace vulnerability, Bangladesh is one of the worst victims as we have the example of Bangladesh Bank reserve money heist. In every twenty seconds, it is statistically evident that a cybercrime is taking place and more 500000 WebPages contain hacker tool (Alam, 2013) and the state of cybercrime prevention situation is very poor in Bangladesh (Haque, 2019).

Consequently, addressing cybercrime is the pressing demand for now and obviously for future. To ensure holistic and sophisticated development, Bangladesh requires urging it for some reasons:

- The increasing trend of cybercrimes, in particular cybercrimes against the women and girls can destabilize the sustainable security and peace process.
- Bangladesh has maneuvered digital manifesto at the core of its heart for all

kind of development process with due diligence, therefore the requirement to counter and preemptive action of cybercrimes against women and children will surely speed up our aspirations and visions.

- Bangladesh is signatory of many international protocols, treaties, conventions in regards to stopping sexual exploitation, abuse, harassment both in online and offline.
- Bangladesh is one of the promising and pathfinding nations for promoting women and girls security, and our HPM has secured global recognition in this regard, meanwhile it is urgently required to counter future challenges of cybercrimes against women and children especially.

Importance of addressing cybercrimes against women and children

Bangladesh economic growth has become a magical story for many states and analysts. However, only crude economic growth will not ensure sustainability. Meanwhile to ensure sustainable development, security and peace in society, it is highly important for the government to address this issue seriously. Otherwise, the holistic development that the Father of the nation Bangabandhu Sheikh Mujibur Rahman dreamed of that Sonar Bangla will not be fully achieved. The NIS, Visions, Manifestos, Plans will be partially achieved without addressing this persistent problem, cybercrimes against women and children in cyberspace in Bangladesh. There have been urges in our laws, policies, strategies and instruments.

The Constitution of the People's Republic of Bangladesh (Article 28.1 through 28.4) guarantees forbid any form of discrimination on the basis of sex It described:

- i) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.
- ii) Women shall have equal rights with men in all spheres of the State and of public life.
- iii) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.
- iv) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.

Figure 3 : Representative image of a woman subjected to online harassment



Source: Collected from Police Cyber Support for Women, 2020

According to section 3.8 of Bangladesh Awami League Manifesto, 2018 has also designed to pursuant to establish and implement any such actions to eliminate any forms of violence and discriminations against women and girls in line with SDGs, CEDAW, CRC (BangladeshAwami League Election Manifesto, 2018).The government of Bangladesh has undertaken massive initiatives to achieve gender equality and ensure empowerment of women and girls as per goal five of SDG. In the liberation war of Bangladesh in 1971, the role of women cannot be ignored.

In all these respects, cybercrimes must be recognized by the Government, Police, judiciary and all relevant agencies as a criminal form of domestic abuse and violence against women and girls. The crime must be sanctioned robustly, without blaming victims. Policies, strategies, training and awareness-raising on domestic abuse and coercive control by Government, statutory agencies and support services – including specialist domestic abuse services – must routinely cover the nature and impact of online abuse, and highlight the extent of the overlap between offline and online form of the crime. To streamline, the aesthetic and holistic development of Bangladesh, meanwhile, the policy makers, administrators, legislators, executive must address this problem. Now.

Available Mechanism, tools and regulations

Bangladesh has already taken many legal remedies and enacted some laws regarding cyber security as well as to counter cybercrimes. eBangladesh has become a cutting edge and cross cutting issues in all our policy papers, namely

-
-
- Constitution of the People's Republic of Bangladesh
 - 8th Five Year Plan
 - National Integrity Strategy
 - Sustainable Development Goals
 - Bangladesh Perspective Plan, 2021-2041
 - Bangladesh Awami League Election Manifesto, 2018
 - Information and Communication Technology (ICT) Policy, 2009
 - National Action Plan to Prevent Violence Against Women and Children, 2013-2025.
 - Digital Security Act, 2018
 - National Action Plan for Combating Human Trafficking, 2015-2017

Though there are no specific laws on cybercrimes against women and children however the issue has somehow covered by laws. The available laws are:

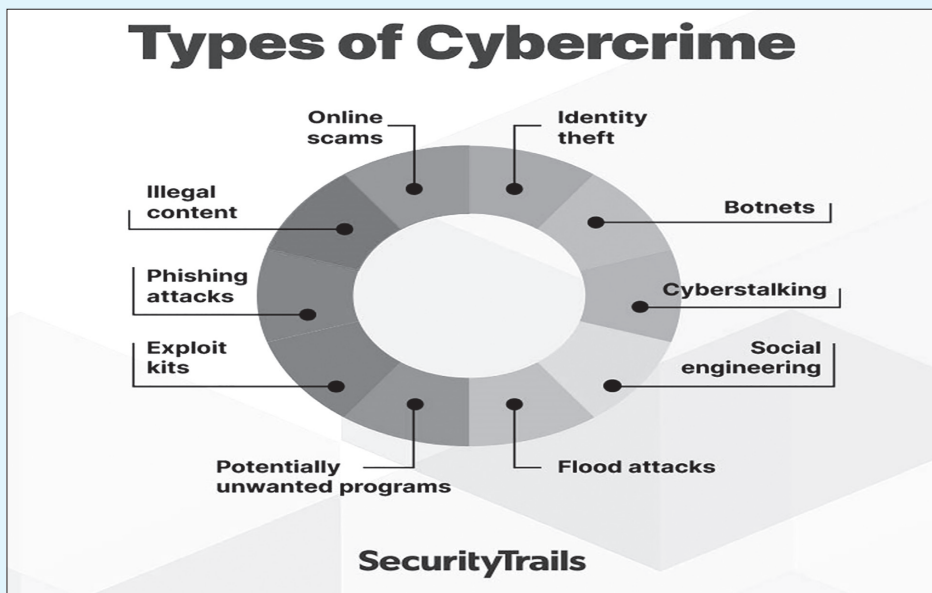
- Information Communication Technology Act ,2006 is one of the significant laws to penalize cybercrimes. Section 57 of ICT Act,2006 is a legal instrument for publishing fake, obscene or any kind of defamatory information of electronic form. It covers both men and women.
- The Pornography Control Act, 2012 is another important legal tool for prosecuting pornography related offences. All the recorded cases are against girls, women and children.
- Bangladesh Telecommunication Control Act, 2001 also prohibits sending obscene or indecent message and hereby declared it as punishable offence.
- Digital Security Act, 2018 also enhances provisions for ensuring digital security and identification, prevention, suppression and trial of offences committed through digital device and for matters ancillary thereto.
- Nari O Shishu Nirjaton Daman Ain,2001 is in addition, defines sexual oppression, including any indecent message for offline offences.
- In a verdict of BNWLA v. Government of Bangladesh, the High Court defined sexual harassment in the workplace and educational institutions both in the public and private sectors to include certain forms of online speech. (Natasha, 2017)

On the other hand, Bangladesh has Information and Communication Technology Division (ICT Division), Bangladesh Telecommunication Regulatory Commission (BTRC), Access to information Program (a2i), first track court Cyber Tribunal, Cyber Appellate Tribunal, Computer Emergency Response Team (CERT), Digital Security Agency, and Digital Forensic Lab under various agencies aimed at combating cybercrime.

Common Forms of cybercrimes in Bangladesh

Cybercrimes includes a wide range of criminal activities across the globe and so for Bangladesh. Generally, cybercrimes can be categorized in two parts in broader and technical perspective. These are as below:

Figure 4 : Common Types of Cybercrimes



- i) Violations that target Computer networking organizations or gadgets. These sorts of wrongdoings incorporate virus and denial-of-service (DoS) and attacks.
- ii) Violations that utilization computer network to progress other crimes. These sorts of wrongdoings incorporate digital following, phishing and misrepresentation or fraud.

The following forms of cybercrimes are common:

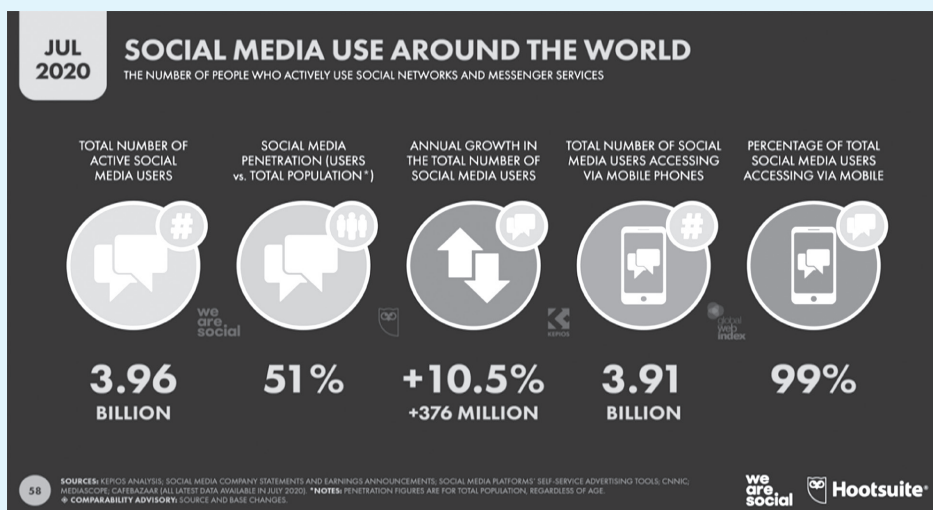
- Phishing: using fake email messages to get personal information from internet users;

- misusing personal information (identity theft);
- Hacking: shutting down or misusing websites or computer networks;
- Spreading hate and inciting terrorism;
- Distributing child pornography;
- Grooming: making sexual advances to minors.

Common Forms of Cybercrimes against Women and Children in Bangladesh

There are number of cybercrimes take place in cyberspace in Bangladesh. These are hate speech, stalking, defamation, sexual harassment, abuse, discrimination, malicious impersonation, revenge porn, obscene images and videos, fake id, fake emails, unauthorized access, blackmailing, obscene contents, mobile harassment etc.

Figure 5 : Social Media Use Around the World



Source: Social Media Overview July 2020 Data Reportal

Case Studies on cybercrimes against women and children

Case Study-1: A Bangladeshi young Miraz Khan(Pseudonym) was collecting videos and pornographic images from girls of different countries, and he uploaded all these criminal contents in different unlawful cyberspaces, and consequently earned money. This suspect demanded money from many girls and women, when they denied to pay. he uploaded these contents. He managed some personal and exclusive contents of an Indian lady victim and told her to deposit 2,50,000to his account, otherwise he will upload her video. The victim seek help from Indian High Commission, Bangladesh and they communicated

with Cyber Crime Investigation Team of DMP and with relentless efforts and collaboration Senior AC Sayed Nasirullah apprehended him with huge adult videos and images of girls and women. (Ramna Model PS Case No-29, Date-29/01/2020, Section: 8(1), 8(2) of The Pornographic Control Act 2012)

Case Study-2: A Bangladeshi Young Arman (Pseudonym) somehow connected with a Thai girl, using a social media platform. As time goes on, they made intimacy and started to share personal and private videos each other. The guy breached trust and demanded huge amount of money from the Thai girl, otherwise he will upload all these videos in porn platforms. At one point of time, Arman created a fake ID of this girl and started to upload her images and videos. This Thai victim, without getting any legal remedies, messaged Police Headquarters administered Facebook page Police Cyber Support for Women (PCSW) and the police officers managed the offender to apprehend in this February, 2021.

Establishment of Police Bureau of Cybercrimes (PBC) – A Potential Breakthrough

Despite having all these abovementioned available laws, tools, regulations and institutions, the citizens of this country have been observing a steady rise of cybercrimes, more importantly the rise against women and children. In 2017, the then State Minister for Post and Telecommunications Tarana Halim mentioned at least 73% internet users women face cybercrimes whereas only 23% lodge complaints and urges all communities to do many works on it (The Daily Star, March 08, 2017). Albeit existence of all these set of legislation, regulatory frameworks, a new comprehensive policing institution is required to expediate the digital development to address this pressing problem. The brilliant and tech savvy policymakers, the sanguine and futuristic bureaucrats will revisit the existing policy measures and will definitely consider special attention to address this problem and uniquely form a Police Bureau of Cybercrimes as a cutting-edge digital platform to protect every citizens from the perversion of cyberspace.

Comparative Analysis of PBC in different Countries

In many countries Police Based Cyber Centers has established as a remedial policy institution to encounter cybercrimes and combating tool for cybercrimes against women and children. To establish such time bound organization, these countries enact special law. In European Union, EUROPOL Cyber Center, is one of the glaring example to encounter cybercrimes with special emphasis on women and children. In Korea, Police Cyber Bureau is another example for addressing this problem.

European Cybercrime Center

Tackling cybercrimes, more pinpoint combating crimes against women and children in cyberspace has been one of the top priority in European Policy Cycle. After decades of debates, regulations and several measures, empowered by the Directive 2013/40/eu of the European Parliament and of the council of 12 august 2013, the latest strategy the European Union has implemented European Cybercrime Center (EC3) within European Police Organization (Europol) in 2013. After a feasibility study under the communication title 'Tackling Crime in our Digital Age: Establishing a European Cybercrime Center' European Commission established EC3 within Europol in the Hague. It has become the European Union's focal point in the fight against cybercrimes including cybercrimes against women and children.

Figure 6: EUROPOL EC3 Logo



Source: EUROPOL Official Website, 2020

Europol already has gone beyond its boxes and run a number of ad hoc projects like CYBORG, TERMNAL, and TWINS under European Data Protection Supervisor. Before that EU also launched two legal directives on combating the sexual abuse and sexual exploitation of children and child pornography in 2011 and the second one is directive on criminalization of illegal interception. As a result, European Cybercrime center under European Policeserves as a collaborative platform for law enforcement and judicial authorities for a safer eEurope.

Korean National Police Agency Cyber Bureau

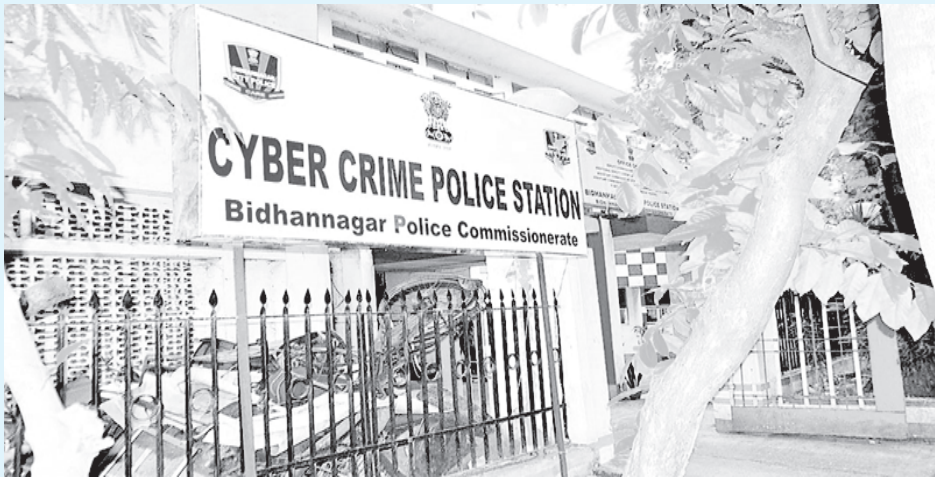
Korean Cyber Police Bureau was established under Korean National Police Agency with the sanctions of 900 police professional experts on cyber security. This Police Bureau comes into existence after the suicidal death of national movie star, actress, model and sweetheart of Korea ChoiJin-sil. The Members of National Assembly, Police and Media simultaneously pointed internet for her death due malicious online rumors. Under the presidential Decree No. 25240, Ministry of Security and Public Administration issued ordinance No.63 on November 03, 2014 created Korean Cyber Police Bureau.

The Bureau works in collaboration with Korean Information Security Agency (KISA). Nowadays it has been playing significant role in easing the lives of the south Korean people, despite having a growing number challenges in the cyberspace. It has dealt with 118,000 complaints in 2015 and 121,000 in 2016. To ensure a safer eKorea, its emergence was a must.

The Indian Perspective

India has already set up Cybercrime Police Stations in some provinces, for example in Bangalore and Orissa. They created some posts for IPS Officer in Criminal investigation Division. However, they also have a dedicated Forensic Science University in Gujrat where they train and build capacities of police officers on cybercrimes from India and Beyond. Despite all these significant progress in cybersecurity, National Commission for Women in India in a report 'Ways and Means to Safeguard Women from Cybercrimes' recommended many policy measures. In consultation with the commission, Minister of State for the women and child development Mr. Virendra Kumar confirmed Rajya Sabha in 2018 that cyber police stations under Police Department and cybercrime cells under Criminal Investigation Department will be underway for each Provinces to take actions on violence against women and children in cyberspace.

Figure 7: A Cyber Police Station in India



Source: Google Image, 2020

Objectives and Methodology

Goal

The goal of this policy paper is to identify the best possible policy mechanism to prevent, sensitize, reduce, redress and control cybercrimes against women

and children to ensure a sophisticated and holistic development to support the government aspiration to be Golden Bangla by 2041.

Objectives

The objectives of this policy paper are to:

- i) control crimes against women and children happening in cyberspace in Bangladesh
- ii) prevent crimes against women and children happening in cyberspace
- iii) proper enforcement for punishment with due process of law, and to achieve these objectives , and this paper will
- iv) Critically analyze the available policy options and find out the best one to address the abovementioned core problem that has been already identified.

Policy Questions

- i) What is the trend of Cybercrimes against Women and Children in Cyberspace (CWCC) in Bangladesh?
- ii) What are the factors of such trend?
- iii) How CWCC is affecting our national growth and holistic development?
- iv) What are the available global as well as national measures to combat CWCC?
- v) What are the successful initiatives taken by other and adjacent countries to address this menace?
- vi) How this problem can be addressed with best possible means and ways in Bangladesh?

Data and Methodology

This Policy paper will be basically based on secondary sources of literature, policy measures, data and statistics. Due to time constraints and global corona virus pandemic situation, primary data will not be obtained. Nevertheless, an online survey or opinion poll survey on available options will be materialized for the purpose of the greater authenticity and citizens and policymakers admissibility. Meanwhile, the relevant authentic data will be collected from BTRC, ICT Division, CERT, Bangladesh Police, Bangladesh Bureau of Statistics, UN Women, Unicef, UNDP, World Economic Forum, World Bank.

In addition, different reports, journals, working papers, policy papers, books, newspapers reports and articles, digital publications, and available readings and academic papers from creative commons will be used, analyzed and critically handled here for the purpose of the goal, objectives and policy questions of this policy paper.

Analysis and Discussion

The analysis of data yields a vast amount of insights and information on the matter. First, stakeholder analysis is conducted, followed by problem analysis and in-depth discussion of the root problems and also the associated issues. Based on the foundation of these analyses, the policy options are elucidated and evaluated.

The final portion of this chapter mentions the optimum policy measures that can be taken along with the implementation plan for addressing the identified problems. These lead to policy implications and recommendations for the concerned authorities.

Stakeholder Analysis

Table 1: Stakeholder List

Government Stakeholders	Development Stakeholders	NGOs/ INGOs Stakeholders	CSOs/Media Stakeholders
Ministry of Home Affairs (MOHA)	United Nations Development Program (UNDP)	Terre des hommes	Media
Ministry of Women and Children Affairs (MoWCA)	Asian Development Bank (ADB)	Ain o Shalish Kendra	Civil Society Member and Organizations
Information and Communication Technology Division (ICT Division)	JICA	BRAC	
BTRC	UN Women	Save The Children	
Bangladesh Police (BD Police)		USAID	
		Plan International	

Table 2: Stakeholder Mapping by Influence and Interest Level

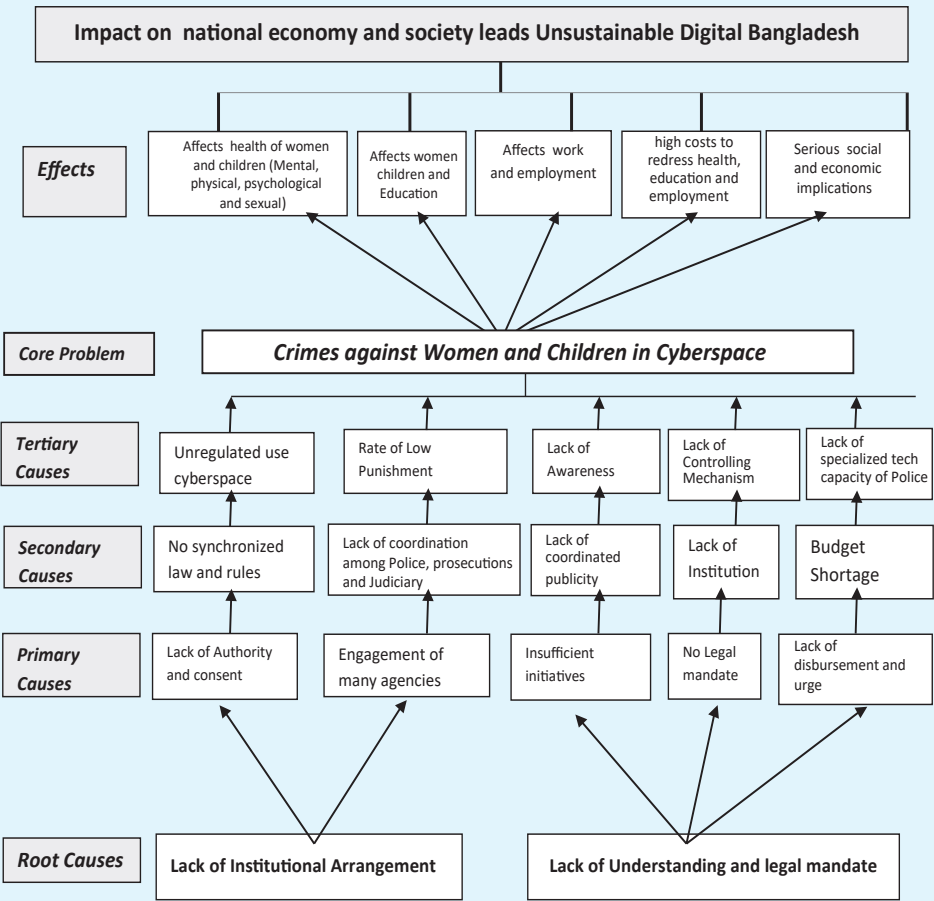
INTEREST			
INFLUENCE	HIGH	HH	HL
		PSD-MOHA MoWCA ICT Division BTRC Bangladesh Police	CSO NGOs INGOs Victims
	LOW	LH	LL
		UNDP ADB JICA ASK PLAN Terre des hommes Save the Children BNWLA	Social Media Users University Students Association Victims Online Activists Grassroots VSOs Cybercrime Awareness organizations

Table 3: Stakeholder Mapping by Knowledge Level

Group-1	Group-2	Group-3	Group-4
Low in-depth Knowledge	Low to Medium in-depth knowledge	Medium to high in- depth knowledge	High in- depth knowledge
Victims Male Associations	MEDIA UNIVERSITY STUDENT ASSOCIATION ONLINE ACTIVISTS GRASSROOTS NGOS	JICA UNDOC UNDP ADB BRAC ASK	MOHA MOWCA ICT Division Bangladesh Police

Problem Analysis

Figure 8: Problem Tree



Core Problem: Rising trend of cybercrime against women and children

The increasing trend of cybercrimes in general and cybercrimes against women and children has become a major impediment in the development trajectory of Bangladesh. In cyberspace, crimes against women and children are seen as cyber tsunami. Many political analysts have already observed that if our policy makers do not act now on this core problem it will have multifarious long-lasting impacts on health, education, productivity, work and employment and that will definitely increase expenditures on national economy and society. It is already found that few of these issues can blur all of our development images, activities and destabilize sustainable security, if there is no sustainable security, there will be no sustainable development and finally there will be no sustainable peace in the societies.

Root Causes

Analyzing the problem tree upon secondary statistics, data, reports and literature it is rationally revealed that following are the root causes behind the increasing trend on cybercrimes against women and children:

- i) Lack of Proper Institutional Arrangement
- ii) Lack of Education, awareness, sensitization, safeguards

Lack of Proper Institutional Arrangement

Stringent policies, laws, rules and regulations are there here in Bangladesh. Institutional arrangement for implementing these rules are sporadic, non-synchronized in nature. Bangladesh Police, as one of the oldest establishments, has taken few initiatives from it own during different policing leadership tenures. These measures have substantial capacity constraints for many reasons. Here how it is going on:

- i) Police Cyber Support for Women- A Facebook Based Policing initiative taken from Police Headquarters by Present Inspector General Dr. Benazir Ahmed BPM (Bar) within its existing human resources, finances and capacities. This small scale only for women initiative is inaugurated on November 16, 2020. However, it has already overflowed with huge number of complaints in terms of its capacities and resources.
- ii) Cyber Police Unit within the Capacity of CID-Criminal Investigation Department of Bangladesh Police runs a Cyber Police Unit within its own capacities and resources. Due to its nature, it is basically city based focusing on large scale business scam and much talked crimes.
- iii) Cyber Police Unit within Dhaka Metropolitan Police- DMP's Counter Terrorism and transnational Crime Unit also operates and looks after Dhaka Based cybercrimes, again largely based high profile cybercrimes.

On the other hand, there are very low scale official lawful connection with ICT Division, BTRC, a2i with Bangladesh Police as per the rules of business and allocation of business. Nevertheless, there exists implied working understanding which is again, time consuming and requires relentless pursuit and resilience. Within such a given situation, lack of proper policing institutional arrangement for the implementation of the legislative endowments is one of the root causes of this core problem.

Lack of Education, awareness, sensitization, safeguards

The increasing trend happens not only because of this proper institutional arrangement but also because of lack of proper education, awareness, community

and family sensitization, and ignorance on technological features and aspects. Most of the available empirical research and policy briefs on crimes against women and children in cyberspace shows that due to lack of education, awareness and understanding, this crime is increasing and individual level people are being victimized. It is happened because of there is no mandated exclusive institution and budgetary allocation to promote awareness and continuous education regarding cybercrimes against women and children.

Primary Causes

Lack of Authority and consent

Here in Bangladesh, ensuring safe cyberspace is everyone's job, but it remains no one's job so far. Basically, there is lack of authority in this regard from policing part as there is no synchronized and harmonized policing platform for combating this specific crime. A legal structure and mandate, like European Police Cyber Center, Korean Police Cyber Bureau, is absent here as a primary cause of the problem tree matrix. In existing Laws, the traditional police are vested with investigative powers and responsibilities without strengthening their knowledge and tech-based expertise. It is like the 21st century crimes are being dealt with 20th century Police officers using 19th century regulations and 18th century techniques.

Many Agencies but lack of multi-level Approach

All policy and practice should fall into three categories, such as preventive measures through community consciousness rising, mobilization, and sensitization; assurance of safeguards in cyberspace for women and girls and implementation of punitive measures and sanctions. These are supportive for each other, without one pillar, another cannot work independently (UN Women, 2015). Here in our case, we have institutions but to combat cybercrime there are lack of multi-level approach.

Insufficient Initiatives

A few numbers of initiatives have been observed for cybercrimes campaigns. From primary education to tertiary level, from individual to institutional approach, there are lack of sufficient initiatives to promote awareness across the nation. However few initiatives have found in special days in sporadic ways. Additionally, few security features are updated time and again in social media platforms and as days go on, criminals are faster to decode all these algorithms somehow.

Lack of legal mandate

Despite having stringent and punitive penal laws to combat this problem, there are lacking in promotion of awareness. In most of the scenarios, Laws are formed and enacted with some effect of retrospective perspectives. Digital devices are always prospective, and here lies the gap. To address this gap massive initiatives, including academic endeavors, are required. The lack of legal and policy mandate is one of the reasons in this regard.

Insufficient Fund

In many informal discussions, it has come to fore that the existing institutions do not have sufficient funds and allocation in regards to campaign, education, awareness, sensitization for combating cybercrimes. Basically, there is no single platform with inclusive measures to address this problem.

Secondary Causes

No synchronized Law and Rules

There are major procedural weaknesses in existing laws in regards to cybercrimes (Mahboob, 2016). The provisions of related ICT Act of 2006, the Pornography act of 2012 and Digital Security Act of 2018 are still required to follow the procedures of the Code of criminal Procedure of 1898 and the Evidence Act of 1872. In investigating and prosecuting a 21st century cybercrime with 18th century procedures is definitely archaic and non-compatible with genetic, nanotechnology and robotics issues.

Lack of Coordination among Police, Prosecutions and Judiciary and other leading agencies

Cybercrimes against women and children in cyberspace is a systematic societal concern and challenge that requires systematic, coordinated and collaborative institutional arrangement and coordination is a missing dot. There are laws, remedial measures, judicial measure but no implementation institution.

Lack of Institutional Capacity

Like Europe, Korea, and India, Bangladesh Police yet to have any Specialized Bureau for combating cybercrimes and its tech-based investigations. The existing Cyber Tribunal or Cyber Appellate Tribunal cannot look into the pros and cons of cybercrimes investigations (Mahboob, 2016).

Budget Shortage

In United States, 15 Billion USD was allocated for cyber security in 2019 which is worth 0.3% of entire fiscal budget. In India, Budgetary Allocation proportionately very high for cybercrimes in different domain like Education, Training and Research purposes, Criminology and Forensic Science, Modernization of Police Forces and Crime and Criminal Tracking Network and Systems (CCTNS), Indian Cyber Crime Coordination Centre, and Technical and Economic Cooperation with Other Countries. Comparing with such scenario, the situation of budgetary allocation for combating cybercrimes is a bit frustrating, even more frustrating allocation for cybercrimes against women and children in Bangladesh Landscape (Sushmoy, 2018).

Tertiary causes

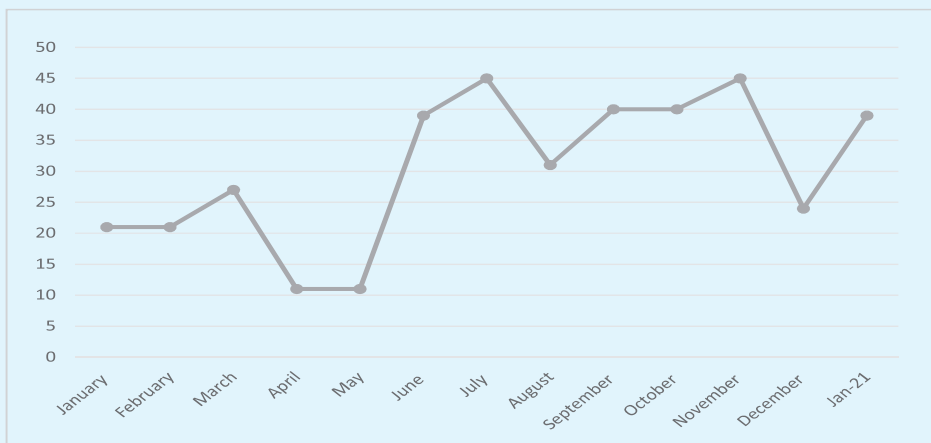
Unregulated Use of Cyberspace

Due to all the these primary and secondary causes, the tech giants of such social media platforms have been enjoying a kind of lessees faire freedom in Bangladesh, buying most of our citizens time in an unproductive way. In Europe, Google had to go back and had to respect rights and privacy of individual citizens.

Rate of low Punishment

The cybercrimes in Bangladesh, most of the victims are women and children have been increasing alarmingly every day because of the poor conviction rate. Till 2019, the data shows only 3% cases were proven which a poor rate of conviction is definitely.

Figure 9: Recorded Case in Pornography Act in Bangladesh from January 2020-January 2021



Source: Crime Analysis Section, Bangladesh Police Headquarters, 2021

In PCSW received more than 15000 complaints in three months, whereas in those three months victims lodge only 108 cases in Police Stations. It is however evident that there are huge number of cyber victims reports, less number of records and more less number of conviction rates.

Lack of Awareness on cybercrime

In proportion to digital development, Digital literacy is yet to disseminate here in Bangladesh. In these days, a number of people can afford digital devices and do have free access to social media platforms, mostly in Facebook (Natasha, 2016). In on the contrary, they are not well informed about current development of digital revolutions and do have ignorance of laws, rules and regulations government has already undertaken. In addition, there are sporadic awareness campaigns in urban areas however massive mass is missing from this learning due to solid institutional mechanism of cybercrimes. At this point, the proposed institutional framework should incorporate massive awareness campaign on cybercrimes against women and children in cyberspace across the country (Sadik, 2020).

Lack of Controlling Mechanism

Cybercrimes, including crimes against women and children in cyberspace is recognized as crime globally and urges for a controlling mechanism here in Bangladesh. The lack of controlling mechanism is somehow causes the crimes more and more. Meanwhile, there are no cyber security standards, standing operating procedures for combating cybercrimes.

Lack of Specialized Tech capacity of Police

21st century crimes must be addressed 21st century smarter police professionals. Many studies, reports and researchers show that cybercrime police investigators technical challenges. The basic training of Police is still based on non-technical and non-specialized fields. Once they are trained, they remain granted for forever, but cybercrime is evolving continuously along the development of 4th industrial revolution. In this age of unprecedented technological change and advancement, cybercrime investigators must be technical, specialized and tech savvy and lifelong learners. Cybercrime as a regular part, requires intensive research and capacity enhancement and specialization of police and their investigations.

Effects of Cyber Violence on Women and Children

Cyber violence against women and girls is an essential global as well as national problem with serious implications on health, education, culture, economy, and development (Femicide, 2019). Cybercrimes against women and children like, revenge porn, rape threat, stalking, harassment and abuse lead to emotional stress and driven many to commit suicide. The risk of suicide attempts is 2.3

times higher for online violence across the world. In Bangladesh, it is evident that there are a growing number of girl and women suicide incidents due to cyber violence by intimate partners in cyberspace, early marriage due to avoid cyber stalking, traumatized family burdens. 32% children are at risk and vulnerable due to cyber violence (Unicef, 2019).

The widespread cybercrime victimization bears huge financial costs. Though immeasurable, breaching the trust and harmony in between and among people to people and society will lead to a bigger hollowness within. All these incidents are leading to effect of women and girls health, education and economy of Bangladesh. The national cost of such effects will be unbearable for Bangladesh, if it not addressed instantly. The development aspirations that are enshrined in Constitution, Perspective Plan, Vision 2021, 2041, Birth Centenary in 2071, and in Delta Plan 2100 of Bangladesh will not be fully cherished, leaving behind this greater mass.

Option Identification and Strategy Analysis

5.1 Probable Policy Options

The probable policy options for addressing the core problem are as follows:

Option 1: Strengthen the Existing Mechanism

Option 2: Formulating New Legislation

Option3: Establishment of Police Cyber Support Center for Women and Children (PCSWC)

Option4: Establishment of Police Bureau of Cybercrimes (PBC)

Strengthen existing Mechanism

Laws play a very significant role in preventing and combating cybercrimes against women and children in Bangladesh. Though laws are date back to the procedures of 19th century and mostly on physical evidence, still it can be strengthened. With the purview of National Cyber Security Strategy (NCSS) with three priorities, like legal measures, technical and procedural measures, organizational structures, a streamlining mechanism of harmonization of existing laws like ICT Act, Pornography Act, and Digital Security Act is a must.

How it will work:

- Form a committee with experts and civil service officers in cooperation with BTRC, ICT Division, Bangladesh Police and other development stakeholders.

-
-
- Analysis of pros and cons of existing mechanism in comparing with available best practices.
 - Seek critical opinions of practitioners, experts and bureaucrats, and intellectuals
 - Develop hi-tech skills of Police Investigators who are working in this arena.
 - Develop a standard operating procedure of communication and harmonization of this existing system within BTRC, ICT Division, and Police.

Formulating New Legislation

To address this persistent problem of cybercrimes with the emphasis of cybercrimes against women and children, formulating new dedicated and harmonized legislation can be a policy option. Generally, this law will set specific aim, objectives, sensitization provisions, specialization, sanctions and safeguards.

How it will work:

- Research and study on the available laws in this regard in other countries.
- Form a committee combining with Policy maker, Bureaucrats, Police, and Judiciary.
- Form a committee for drafting and further process
- Consultation with legal experts, cyber security experts and lawmakers
- Develop institutional multi-level approach to avoid future implications

Establishment of Police Cyber Support Center for Women and Children (PCSWC)

To combat this special kind of cybercrime against women and children, setting up Police Cyber Support Center for Women and Children by Public Safety Division, Ministry of Home Affairs can be another available option. In a smaller scale, Bangladesh Police Headquarters has been operating PCSW to address this emerging challenge within its existing capacity, though incapacitated with manpower, resources, techs and other up to date requirements. Ministry of Home Affairs along with MoWCA, BTRC, ICT Division, and Bangladesh Police may be kind enough to enlarge it as a specialized nationwide unit.

How it will work:

- Formulate a new Special Act to establish a cutting-edge institute like PCSWC
- Evaluate existing mechanisms and platforms
- Form a committee and Prepare DPP for PCSWC
- Collaborate with development stakeholders for partnership
- Strengthen capacity building of police professional for this specialized establishment
- Form an advisory committee to report, evaluate and monitor the progress of PCSWC

Establishment of Police Bureau of Cybercrimes (PBC)

Examples and evidences suggest that combating cybercrimes with special emphasis on cybercrimes against women and children have developed as a most appealing tool for troubleshooting cybercrimes, including crimes against women and children in cyberspace. In many developed nations, and adjacent countries, setting up specialized cybercrime bureau, unit or center has become an ultimate solution. The setting up of EC3 under Europol Europe, setting up Police Cyber Bureau in Korea by Presidential Decree, and setting up cyber police stations in very provinces in India are some of the glaring example for Bangladesh.

How it will work:

- Formulate a new Special Act to establish a cutting-edge institute like PBC
- Evaluate existing mechanisms and platforms
- Form a committee and Prepare DPP for PBC
- Collaborate with development stakeholders for partnership
- Strengthen capacity building of police professional for this specialized establishment
- Form an advisory committee to report, evaluate and monitor the progress of PBC

Option Analysis for Implementation

Table 4: PESTLE Points Analysis

Options	Criteria	Political Feasibility	Economic feasibility	Social Feasibility	Administrative Feasibility	Environmental Feasibility	Financial Feasibility
Option 1: Strengthen existing Mechanism		+	+	+	+	+	+/-
Option 2: Formulating New Legislation		+/-	+	+	+	+	+
Option 3: Establishment of Police Cyber Support Center for Women and Children (PCSWC)		+	+/-	+	+	+	+/-
Option 4: Establishment of Police Bureau of Cybercrime (PBC)		+	++	++	+	++	-

Stakeholders Analysis

The following stakeholders are identified as crucial for implementation.

- Public Safety Division- Ministry of Home Affairs (PSD-MOHA)
- Ministry of Women and Children Affairs (MoWCA)
- Information and Communication Technology Division (ICT Division)
- BTRC
- Bangladesh Police (BD Police)
- United Nations Development Program (UNDP)
- Asian Development Bank (ADB)
- JICA
- UN Women
- ASK
- BRAC
- Save The Children
- USAID
- Plan International
- Online, print and digital Media, Journalists, Editors and Personalities

Table 5:Stakeholder Pros and Cons Analysis

Options	Stakeholders	Victims andcitizens	Media and Creative Commons	INGOs and NGO	CSOs & Think Tanks	Development Partners	Bangladesh Police	BTRC	MOHA	MOWCA	ICT Division
Option-1: Strengthen existing Mechanism		-	+	-	+/-	+/-	-		-	+/-	+/-
Option-2: Formulating New Legislation		+/-	+/-	+	+/-	+/-	-	+	+	+	+/-
Option-3:Establishment of Police Cyber Support Center for Women and Children (PCSWC)		++	++	++	++	++	+	+	+	+	+
Option-4: Establishment of Police Bureau of Cybercrime (PBC)		++	++	++	+	++	++		+	+/-	+

Multi-Criteria Analysis

Table 6: Multi-Criteria Analysis

Policy Options	Administrative	Political	Economic	Social
Option 1: Strengthen existing Mechanism	Ministry of Home Affairs will take necessary initiatives to strengthen, analyze and harmonize existing mechanisms within number of departments	Political will and consent are must require to merge and acquire such services	Long term economic benefit could be achieved.	Citizens as well as victim friendly single platform will be ensured and service process will be enhanced.

Option 2: Formulating New Legislation	Formulating new law requires administrative research, drafting and necessary actions to bring it into law	Public confidence, trust will be enhanced and restorative justice will be addressed.	Far reaching and implied economic strength can be achieved due to gender-based stability in society.	Social inclusiveness, equality, rule of law progressive and futuristic interest will be deepening.
Option 3: Establishment of Police Cyber Support Center for Women and Children (PCSWC)	Administrative consent, process and initiative is required.	The digital Bangladesh commitment will be fostered.	Due to digital infrastructure it will have long term economic impact in the lives of people.	Digital fairness and access to ICT will divide the life style gaps.
Option 4: Establishment of Police of Bureau of Cybercrimes (PCB)	Public Safety Division of MOHA, in consultation with MOWCA and Bangladesh Police ignite the process of formulating a Special Act and allocate budgetary resources to establish Police Bureau of Cybercrimes (PBC)	Political urge, reaffirmation, and further consent is the key to establish such new office.	There will be sustainable economic impact through sustainable gender sensitive security in society.	The indomitability, resilience and confident women and children community in cyberspace foster the harmony, bond and inclusive and sustainable development.

Comparison of Options

Table 7: Impact of Risk Analysis

Assessment Criteria	Points (0 to +/-5)	Weight (0 to 1)	Impact (PxW)	Total
Option 1: Strengthen existing Mechanism				
Administrative	3	0.3	0.9	2.8
Fiscal	2	0.1	0.2	
Political	3	0.2	0.6	
Economic	3	0.3	0.9	
Social	2	0.1	0.2	
Policy Option 2: Formulating New Legislation				
Administrative	3	0.3	0.9	2.7
Fiscal	2	0.1	0.2	
Political	3	0.3	0.9	
Economic	2	0.2	0.4	
Social	3	0.1	0.3	
Policy Option 3: Establishment of Police Cyber Support Center for Women and Children (PCSWC)				
Administrative	3	0.3	0.9	2.9
Fiscal	-1	0.1	-0.1	
Political	3	0.3	0.9	
Economic	2	0.2	0.4	
Social	4	0.2	0.8	
Policy Option 4:Establishment of Police Bureau Cybercrimes (PBC)				
Administrative	4	0.2	0.8	3.2
Fiscal	-1	0.1	-0.1	
Political	4	0.2	0.8	
Economic	4	0.2	0.8	
Social	3	0.3	0.9	

Table 8: Ranking based on scores of Multi-Criteria Analysis

Option		Score	Ranking
1	Option-1: Strengthen existing Mechanism	2.8	3
2	Option-2: Formulating New Legislation	2.7	4
3	Option-3: Establishment of Police Cyber Support Center for Women and Children (PCSWC)	2.9	2
4	Option-4: Establishment of Police Bureau Cybercrimes (PBC)	3.2	1

Table 9: Risk Factor Analysis

Options	Risk Factor	Risk Level
Option 1: Strengthen existing Mechanism	Rigidity to accept change, Institutional Sclerosis, and Quotarian Interest	Medium
Option 2: Formulating New Legislation	Existing Laws will be archaic, Formulating New law will create debate and will have huge arguments in Society	High
Option 3: Police Cyber Support Center for Women and Children (PCSWC)	Political Consent and Commitment, too specified and too much narrowed down Institution will cost huge budgetary allocation, High Quotarian Interest and may have future debate from Male Counterpart	High
Option 4: Police Bureau Cybercrimes (PBC)	Political Commitment and Consent, align with Digital Bangladesh, All Inclusive Mechanism, High Budgetary Development Allocation	Medium

Preferred Policy Option and why it is recommended

From every perspective, PESTEL analysis, Stakeholder analysis, impact analysis, and citizens' opinion survey it is evidently shown that 'Policy Option 4: Police Bureau of Cybercrimes' is clearly ahead of all available policy options in hand.

From multi-criteria analysis, it is evidently proven that 'Policy Option 4: Police Bureau of Cybercrimes' scored highest followed by Policy Option 3: Police Cyber Support Center for Women and Children. Whereas Policy Option 1: Strengthen existing mechanism and policy option 2: Formulating new law secured 3rd and 4th position chronologically.

Consequently, as a logical and rational corollary, 'Policy Option 4: Establishment of Police Bureau of Cybercrimes' is a preferred policy option for the decision makers among all the available policy options at hand. This option is highly recommended to accelerate digital Bangladesh goal that is already underway. This option will also be financially viable and cost effective in comparing with option 3. If Option 3: Police Cyber Support Center for Women and Children is established, there will another urge to establish a Cyber Crime Center in future.

Meanwhile, option 4: Establishment of Police Bureau of Cybercrimes will fulfill global demand in broader perspectives as well as our identified core problem. In consequence it will reduce the financial and social burden of national economy and society, furthermore will enhance our development trajectories in different timelines and visions enshrined in government aspirations and strategies.

Implementation Plan and Institutional Framework

Implementation and Monitoring Plan

Without having implementation and monitoring plan, policy formulation cannot be fully achieved. Meanwhile, implementation and monitoring mechanism is must to ensure effectiveness. It requires concrete plan, specific job description, coordination, documentation, and modalities. The resource requirements, including professional human pool, financial allocation, and logistic arrangements, technical and technological support should be candidly defined and mobilized. Implementation and monitoring tools and techniques must be streamlined in line with the global best practices and sanguine standards.

Considering all these essence and spirits, the proposed implementation and monitoring plans of the preferred option is delineated herewith.

Table 10: Implementation and Monitoring Plan

Policy Options	Responsible Agency	Resources Requirement	Implementation and Monitoring Technique	Time Frame
Policy Option 4: Establishment of Police Bureau of Cybercrimes	MOPA	<ul style="list-style-type: none"> * Budgetary allocation * Special Act * Institutional arrangement * Human Resources * Emerging technologies and ICT * Expertise and consultation * Proper Utilization 	<ul style="list-style-type: none"> * Priority Planning * Organizational Arrangement * Continuous education and training * Capacity Enhancement * Operational Business model * Standard Operating Procedures 	From 18 Months to 24 Months

Implementation Schedule

To implement the recommended policy option 4: Establishment of Police Bureau of Cybercrimes, the following schedules are shown. The establishment of Police Bureau of Cybercrimes (PBC) requires number activities in different times with the given framework.

1. Special Act

Public Safety Division of Ministry of Home Affairs in collaboration with BTRC, ICT Division, MoWCA and Bangladesh Police shall formulate a Special Act with due diligence and consultation with concerned stakeholders and partners.

In this regard, we also need to keep the best global practices in mind. For example, the EU GDPR has been one of the significant magna carta of digital age to protect people's privacy and dignity. The European Google vs. Spain case has been of the landmark verdicts in respect to private people's dignity and privacy.

The European Court of Justice ruled that European Private Individual has the right to request the tech companies to remove his or her links, information as and when he or she feels aggrieved. Here in Bangladesh, we have very few regulatory initiatives and measures to control gigantic cyberspace and their companies; meanwhile, it remains largely unregulated.

2. Budgetary Allocation

The Government of Bangladesh shall allocate budget from annual development program (ADP) within the national budget. In addition, the Proposal can be taken into consideration of development partners for initial syndicate financing.

3. Establishment of PBC

The PBC shall be specialized, technical and futuristic entities of Bangladesh Police under the purview of Ministry of Home Affairs which shall have follow global and national best practices to combat countrywide cybercrimes with emphasis of cybercrimes against women and children.

4. Operationalization of PBC

Under the Special Act, MOHA shall formulate governing rules and guiding principles while Bangladesh Police shall formulate standard operating procedures, operational plans, capacity enhancement plan, tactical and technical strategies and effective victim friendly business model of PBC.

5. Table of Equipment and Infrastructure

The MOHA shall allocate necessary manpower, vehicles, technical equipment, emerging technologies for this purpose whereas development partners shall establish a state of art IT infrastructure of this proposed PBC.

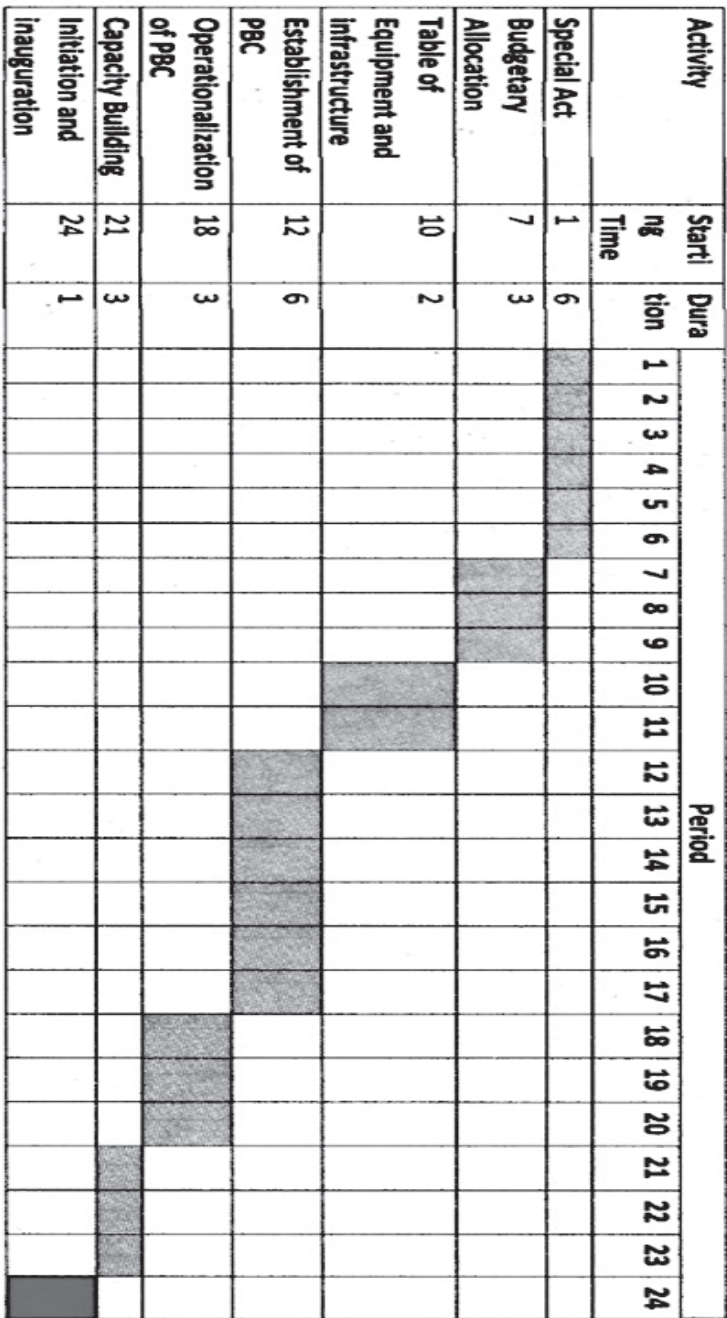
6. Capacity Building

This is one of the most essential elements for ensuring success and continuation of the initiative. A sustainable agency needs capacity building in order to survive and thrive.

7. Initiation and Inauguration

This step is the formal opening and start of work for the agency. However, background work will have started much earlier, as the following chart shows.

Gantt Chart 1: Option-4: Establishment of Police Bureau of Cybercrimes



This schedule has been devised in the Gantt Chart within the time frame of 24 months.

Tentative Framework for Bangladesh PBC

To establish PBC for Bangladesh will definitely be a hard work for policy makers, Bureaucrats and concerned officials. To ease this process, a tentative framework for bringing this rational recommended policy option into reality, is shown below:

Table 11: Tentative Institutional framework for Bangladesh PBC

Legality	The Special Act
Legal Status	PBC shall be a separate entity under Bangladesh Police with the purview of Ministry of Home Affairs
Essential Mandates	Prevent, Protect, investigate, Prosecute, and provide redress all women and children of cyber victims Prevent, protect, preserve, investigate all other cybercrimes
Administration	Headed by a Additional IGP, with Female DIG for Cybercrimes against women and children Wing, and a DIG for all other cybercrimes. A Board of Advisors comprised of personnel from MOHA, BTRC, MoWCA, ICT Division.
External Supervision	Public Safety Division, Ministry of Home Affairs along with BTRC, MoWCA, ICT Division
Transparency and Accountability	Periodic reporting to PHQ for concerned Ministries.
Capital	Approximate estimate BDT 3000 Crore (60% from ADP and 40% from Development Partners with Project finacing)

Regulatory Mechanism

The Special Provision for Bangladesh PBC may includes following general principles of law formulation with the provision of MOHA's rule making authority, though not limited within.

- i) General Definition and scope of the said PBC
- ii) Structure of manpower, duties and responsibilities of officers
- iii) Powers and limitations of PBC
- iv) Digital Investigation, forensics and collaboration and future challenges
- v) Research and development and capacity building
- vi) Government's rules/directive issuing authority

Policy Evaluation-Impact Assessment

The Policy Option 4: Police Bureau for cybercrimes has become champion in every aspects. It has become crystal clear in PESTLE analysis, Stakeholder analysis, and multi-criteria analysis and in concerned citizens survey. Nevertheless, at this point of critical progress of this policy paper, cost benefit analysis and its impact analysis is substantially important. The following questions would be appropriate for policy makers to analysis the recommended policy.

Table 12: Potential Impact Evaluation for Bangladesh PBC

Recommended Policy	Impact Category	Achieved Objectives	Ultimate Goal
Policy Option 4: Establishment of Police Bureau for cybercrimes (PBC)	Short -Medium - Long term		
	Political	Foster political stability in regards to cybercrimes against women and children and deepening ultimate political sustainability	Digital and developed Bangladesh is achieved through sustainable development and peace by ensuring sustainable security in society.
	Social	Ensure social harmony and integrity and bring confidence among women and children communities by avoiding social damage	
	Technological	Enhance fair and just technological advancement with creative standards with huge positive impact on future generations	
	Administrative	Erase future administrative burdens, costs and challenges to address good governance	
	Economical	Reduce economic costs of women and children in particular and public health, in general, health, education, and well being	
	Ethical	Foster trust and ethical standards though digital prevention and detection of cybercrimes	

Impact Analysis of the recommended Policy Option

The Policy Option 4: Establishment of Police Bureau of Cybercrimes is the most comprehensive package program for the State to counter the challenges of Digital Bangladesh, Vision 2021, 2041, 2071 and Delta Plan 2100. It is an all-inclusive policy that would speed up the SDGs, NIS, and will ease the path of the 4th Industrial Revolution in Bangladesh.

Cost-Benefit analysis and impact of recommended policy

The question is how the return of this investment will benefit Bangladesh. It will return mostly as intangible measurement. However, there are returns of this public money.

To ensure public awareness in different ways, it will cost at least 100 crore for this purpose in every year. this public expenditure will be saved. Due to cybercrimes a good number of women and children are affected and State need to extend its expenditure on women and girls health, education for this purpose which is primary estimated 500 crore each year. On the other hand, Bangladesh has become one of worst victim of cybercrimes, for example of 800 million USD money heist. This type of crimes could be prevented and could save more than 1000 crore. Every year mobile banking money fraud cost more 100 crore and if PBC is established citizens money will be returned.

There are number of returns in communities. Can a paycheck payback the honor and dignity of woman? Can we procreate the lives of human beings are unnaturally lost due to cybercrimes? Therefore, intangible returns, which are not scientifically measurable, are more than the expectations. This policy option will maximize economic and social welfare, fairness and equality. Most significantly, this policy has become citizens priority option and preference and maximize their greater good, wellbeing and happiness. The ROI does not limited with present time, it is embedded with future. The politician must foresee the future. The failure of foresee in this regard can bring unpredictable instability in the political landscape.

In future, cybercrime is the central challenge for governance and administration and it will reduce future health hazards, burden and costs of public funds. Calculating all these tangible and intangible returns, this is the ultimate time bound and futuristic fast track priority investment for the government of Bangladesh.

Figure 10: Cost-benefit Analysis



Conclusion

Cybercrimes is the major concern for policy makers and administrators of the century. Violence against women and children in cyberspace is threatening sustainable development and political stability. Bangladesh has faced much political unrest due to this type of emerging new types of crimes and remained one of the worst victims of cybercrimes due to its vulnerability. Though it has taken many initiatives and brilliant ideas, the recommended policy option 4: Police Bureau of Cybercrimes (PBC), will be breakthrough in this journey of development.

The PBC is a new and futuristic policy agenda in the process of eBangladesh. This concept, as a cutting edge option, remains a successful in many countries in countering cybercrimes. Till today, there are no negative impacts found in those countries for this kind establishment. From socio-economic and politico-administrative perspective, implementing the recommended policy option 4 : Police Bureau of Cybercrimes is vastly important-not just practically, but philosophically and futuristically.

In Bangladesh, the establishment of PBC will help to protect citizens, particularly women and children, from mounting threat of cybercrimes. Saving our women and children from aggressive and pervasive cybercrime is not a

mere responsibility rather a holiest duty to perform. The PBC will be a collective platform for prevention, protection, punishment and providing redress to victims. Based on the analysis, the paramount intangible qualitative return of this initial investment will ultimately fulfill the aspirations of national spirit with greater good, wellbeing and happiness of every citizens of the country. In a word, the proposed PBC will accelerate the speed of eBangladesh or digital Bangladesh with immunity, antifragility, and undoubtedly with sustainability.

In conclusion, it is proven that the PBC is a must-required effective mechanism and the policy makers, administrators and the executives must take it forward to fulfill our shared future for saving our generations from the scourge of pervasive cybercrimes.

Bibliography

Ali, A. S. (n.d.). Review of Information and Communications Technology Act, Digital Security Act and Pornography Control Act for the Prevention of Online Sexual Harassment against Child.

Bailey, J., & Steeves, V. (2015). *eCitizens*. University of Ottawa Press.

Bangladesh Bureau of Statistics. (2012). *Population & Housing Census: Preliminary Results* (Issue July).

BLAST. (2016). *Report of Expert Consultation Responding to Violence against Women and Girls in the Cyber Age* (Issue February).

BTRC. (2020). *Annual Report 2019-2020*.

Buono, L. (2012). Gearing up the Fight against Cybercrime in the European Union: A New Set of Rules and the Establishment of the European Cybercrime Centre (Ec3). *New Journal of European Criminal Law*, 3(3–4), 332–343. <https://doi.org/10.1177/203228441200300307>

National Integrity Strategy, 23319 (2019). <https://cabinet.gov.bd/site/page/7d7633ee-62b1-4d12-8e14-6590ae973106/National-Integrity-Strategy/>

Chowdhury, F. D. (2009). Theorising patriarchy: The Bangladesh context. *Asian Journal of Social Science*, 37(4), 599–622. <https://doi.org/10.1163/156853109X460200>

Conference Support Section, Organized Crime Branch, Division for Treaty Affairs, & Unodc. (2013). *Comprehensive Study on Cybercrime*. United Nations Office on Drugs and Crime, February, 1–320. http://www.unodc.org/documents/organized-crime/UNODC_CCPCJ_EG.4_2013/CYBERCRIME_STUDY_210213.pdf

Council of Europe. (2001). *Convention on Cybercrime*. Current, 33(0), 6–8. <https://rm.coe.int/1680081561>

Davies, C. (2015). Revenge porn cases increase considerably, police figures reveal. *The*

Guardian. <https://www.theguardian.com/technology/2015/jul/15/revengeporn-cases-increase-police-figures-reveal>

Englander, E. (2014). Bullying and Harassment in a Digital World. *Bullying, Teen Aggression and Social Media*, 1, 1-29.

European Commission. (2013). 2013/40 Directive on attacks against information systems replacing Council Framework Decision 2005/222/JHA. *Official Journal of the European Union*, 2013(July), 8–14.

FBI's Internet Crime Complaint Center. (2019). 2019 *Internet Crime Report*. https://pdf.ic3.gov/2019_IC3Report.pdf

Feldman, J. (2010). *The state of broadband*. In Information Week (Issue September). <http://www.informationweek.com/infrastructure/management/the-state-ofbroadband/225702723>

Halder, D., & Jaishankar, K. (2011). Cyber gender harassment and secondary victimization: A comparative analysis of the United States, the UK, and India. *Victims and Offenders*, 6(4), 386–398. <https://doi.org/10.1080/15564886.2011.607402>

Henry, N., & Powell, A. (2016). Sexual Violence in the Digital Age: The Scope and Limits of Criminal Law. *Social and Legal Studies*, 25(4), 397–418. <https://doi.org/10.1177/0964663915624273>

Indo Pacific Defense Forum. (2017). *Cyber police tackle a growing number of threats in South Korea*. Indo Pacific Defense Forum. <https://ipdefenseforum.com/2017/07/cyber-police-tackle-a-growing-number-of-threats-in-south-korea/>

ITU and UNESCO. (2020). *The State of Broadband 2020: Tackling digital inequalities*.

Jewkes, Y., & Wykes, M. (2012). Reconstructing the sexual abuse of children: “Cyber-paeds”, panic and power. *Sexualities*, 15(8), 934–952. <https://doi.org/10.1177/1363460712459314>

Kabir, N. (2018). Cyber Crime a New Form of Violence Against Women: From the Case Study of Bangladesh. *SSRN Electronic Journal*, 1–12. <https://doi.org/10.2139/ssrn.3153467>

Korean National Police Agency. (2014). *Basic Plan to Secure Cyber Safety*. https://cyber.go.kr/eng/bureau/cyber_plan.pdf

Leppänen, A., & Kankaanranta, T. (2017). Cybercrime investigation in Finland. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 18(2), 157–175. <https://doi.org/10.1080/14043858.2017.1385231>

Mendez, F. (2005). The European Union and cybercrime: Insights from comparative federalism. *Journal of European Public Policy*, 12(3), 509–527. <https://doi.org/10.1080/13501760500091737>

Myung Oh, J. L. (n.d.). *Digital Development in Korea: Building an Information Society*. Taylor & Francis.

Nabi, M. S. (2019). Unicef: 32% kids at risk of cyberbullying in Bangladesh. *Dhaka Tribune* <https://www.dhakatribune.com/bangladesh/dhaka/2019/02/05/unicefprevent-online-bullying-harassment-of-children-in-bangladesh>

NLU, C. (2020). *India's Cybersecurity Budget FY 2013-14 To FY 2019-20: Analysis Of Budgetary Allocations For Cybersecurity And Related Activities*. <https://www.medianama.com/2020/02/223-cybersecurity-budgetary-allocationsfy14-fy20/>

Owen, T., & Owen, T. (2017). *Cyber Violence*. Crime, Genes, Neuroscience and Cyberspace, 103–114. https://doi.org/10.1057/978-1-137-52688-5_5

Planning Commission, B. P. (2020). Making Vision 2041 a Reality PERSPECTIVE PLAN OF BANGLADESH 2021-2041 (Issue March).

Quayle, E. (2020). Prevention, disruption and deterrence of online child sexual exploitation and abuse. *ERA Forum*, 21(3), 429–447. <https://doi.org/10.1007/s12027-020-00625-7>

Sweeny, J. A., & Slack, J. (2017). Sexting as “sexual behavior” under rape shield laws. *International Journal of Cyber Criminology*, 11(2), 246–260. <https://doi.org/10.5281/zenodo.1037401>

Tipu, M. S. I. (2019). 3% conviction rate of cybercrime in Bangladesh. *Bangla Tribune*. <https://www.dhakatribune.com/cybersecurity/2019/04/20/3-conviction-rate-of-cybercrime-in-bangladesh>

UNDOC. (n.d.). *Cybercrime Module*. UNDOC. <https://www.unodc.org/e4j/en/cybercrime/module-3/key-issues/the-role-of-cybercrime-law.html>

UNESCO. (2015). *Cyberviolence against Women and Girls*. <https://en.unesco.org/sites/default/files/genderreport2015final.pdf>

UNICEF. (2019). UNICEF calls for concerted action to prevent bullying and harassment for the 32 per cent of children online in Bangladesh. <https://www.unicef.org/bangladesh/en/press-releases/unicef-calls-concerted-action-prevent-bullyingand-harassment-32-cent-children>

University of Bedfordshire. (n.d.). *National Centre for Cyberstalking Research*. 2020. <https://www.beds.ac.uk/nccr/>

Xinhua. (n.d.). *S.Korean national police agency sets up cyber bureau*. 2014. http://www.chinadaily.com.cn/world/2014-06/11/content_17578787.htm

Counter Cyber Attack: Issues to be considered before execution

Sahely Ferdous¹

Abstract: Nation states and organizations are frequently affected by cyber-attacks, though their preventive measures such as firewall, antivirus software and other means of detecting intrusion are able to resist many of the attacks. Bangladesh is not out of reach regarding cyber attacks specially when the country has observed the most surprising incidence like Bangladesh Bank (the central bank of Bangladesh) heist in 2016 where around US\$100 million was taken out from the New York Federal reserve. Question arises whether a country or organization can accomplish counter cyber attack even it has the potentiality and scope to do so. This article will focus on three critical factors like legal, technical and risk which obstruct the affected state to take counter action. Legal issues include provision of international law, necessity-proportionality of counter attack and timing of action. Technical issues include attribution, jurisdiction and anonymity. The third factor risk issues include control of action, collection of evidence and confidentiality of information. Cyber-attacks in Bangladesh, Iran, Estonia and in the Target, the US organization will be considered to discuss the issues. The research methodology is qualitative in nature. Research literature, newspaper articles and Bangladesh government publications on cyber-security are the main sources; the main source of information is secondary data.

Keywords: national security, ICT, cyberspace, cybercrime, cybersecurity

Introduction

Since the start of internet use in 1995, Bangladesh has enormously advanced in this sector, with millions of users and thousands of internet service providers currently online. Like all other developed countries Bangladesh is increasingly dependent on information technology and thus becomes vulnerable to cyberattacks. In May 2013, an anonymous hacker group breached the Central Bank of Bangladesh website along with the website of the Ministry of Foreign Affairs. Hackers also compromised the internet security of Sonali Bank and crippled it for a few hours, while in another case in 2015 hacking caused the withdrawal of money from a private bank in Bangladesh. In 2021, more than 200 institutions of Bangladesh have faced challenges against the cyber attack committed by the hacker group named 'Hafnuim'. Such organizations include Bangladesh Telecommunication Regulatory Commission, Bangladesh Bank

1. Additional DIG, Bangladesh Police

along with several commercial banks and internet service providers. On the basis of its operating procedure Hafnium who acts at the back of the malware is believed to be a state sponsored group working out of China. The attack has been committed through insertion of malware into Microsoft exchange server. Though no financial loss is observed, however, it creates a future threat as a wide range of information has given away. The debate is there whether Bangladesh is capable of committing counter attack without considering three critical factors like legal, technical and risk issues.

The number of attacks is increasing due to the easy access to cyber space and rapid proliferation of rootkits and botnets. Now more than hundred nations have potentialities to attack in the cyber space. Therefore, different countermeasures that are applied as a technology to safeguard computer and cyber network are used in various forms including access control, patches, encryption, backups, intrusion prevention systems, honeypots, back tracing and deception. Despite of such non-harmful actions, nation states and organizations are frequently facing serious types of cyber-attacks which destroy their communication systems and physical properties as well. The debate is therefore whether nation states or organizations should be able to execute destructive counter attack. The main challenge of this type of counter attack is to identify whether this action is legally approved by the national and international law. Furthermore, technical limitations and risk make it more difficult to execute, as cyber-attack is different from armed attack. Therefore, due to the lack of standards and regulations in recognizing threat levels, technical difficulties in attributing cyber-attacks and risks in misidentification and control over operations, the victimized nation states or organizations cannot be able to launch destructive counter attacks. Hence, in case of operating such counter attacks, legal, technical and risk issues which make the task more challenging are coming up in the front.

Definition of key terms

Cyber attack

Cyber attacks are defined as some actions through which the attacker or perpetrator gets unlawful entry to any computer, computation procedure and/or computer web in order to create destruction. Cyber attack has the intention to restrict, interrupt, damage and/or have the control over the computer network. It also changes, ceases, removes and/or sneaks information contained by the computer system. Cyber attack has started in the early 1950 and received its impetus afterwards. It begins with the insertion of malware like viruses through which the hacker can control and manipulate the targeted computer system.

Counter cyber attack

Counter cyber attack includes several strategical offensive actions taken by the affected parties in order to stop the attackers' aggressive actions through holding defensive role. It is believed to be the highly effective ways in forcing offenders to leave behind their attacking ideas. It is occasionally used as a course of self defence in order to hold up or cease the cyber attacks.

Discussion: Factors hindering counter cyber attack

Legal Issues

Though the number of cyber attacks influences government and organizations on the political, financial, diplomatic, religious or deterrence issues, there are several legal issues that prohibit the victim state or institution to initiate counter cyber attack. Legally, a nation state can impose counter attack when intervention by an adversary state causes physical damage, because this situation is considered as unlawful use of force (Article 2(4)).

Again, victim state can take self-defense against unlawful use of force as per the Article 51 of the UN Charter (Schmitt, 1999, p. 900 and Buchan, 2012, p. 212). It is found that aggressive cyber-attack such as distribution of malicious code to take information and abolish the system resembles as the dynamic military attack (Waxman, 2011, p. 431 and Pagallo, 2015, p. 423). For example, distribution of the Stuxnet virus against Iran in 2009 causes reduction in centrifugal speed. This virus is more harmful than any other cyber weapon till now and is able to constraint uranium from enrichment in the Natanz Plant of Iran. The debate is whether a state could apply defensive measures according to Article 51 when such types of cyber attacks would amount to armed attacks. The argue is also that as Stuxnet virus is capable to destroy physical structure, so cyber-attack could be compared to nuclear explosion (Broad et al., 2011) and hence, counter attack is legal according to the customary of International Law (Karnow, 2005, p. 88). However, Iran could not exert force as countermeasures and self-defense, because this amount of damage does not fulfill the requirement of an armed attack (O'Connell, 2012, p. 9).

Furthermore, in 2014, Target, the US organization faces POS system hacking which steals electronic fund transfer information of more than thirty nine million customers (The Heritage Foundation, 2014). Counter attack cannot be executed by that organization as such type of hacking does not damage physical properties, though the US government issues regulations in support of counter action (McLaughlin, 2011, p. 61). Furthermore, in Estonia in 2007, attack of DDoS (distributed denial of services) collapses Estonia's government and

banking network without physical damage. Although Estonia is facing threats to sovereignty through this attack, the country could not execute counter attack for the reason that an attempt to impose counter attack is unlawful according to the Article 2(4) and 51 of the UN Charter. The only thing Estonia could adopt is counter measures because the international law permits to respond only when a state is suffered from wrongful but non coercive actions of opponent (Hinkle, 2011, p. 14.).

Thus, counter cyber-attack is not legally possible due to the opacity of law, though the US Department of Defense has the legal authority to impose counter cyber-attack as a part of reactive action (Messmer, 2007, p. 1). Surprisingly it is not possible even after the declaration of the US Cyber Command that in the cyber space, as a new arena of warfare (Pellerin, 2010), the right to attack in countering cyber aggressors is valid and legal (McLaughlin, 2011, p. 61 and Petras, 2002, p. 1231).

In addition to the aforementioned legal issues, ‘necessity’ and ‘proportionality’ of countermeasures should be justified quantitatively and qualitatively under Article 52(2). According to Article 52(3)(a), countermeasures should be applied in response to a continuing internationally wrongful action, though identifying perpetrators with evidence during such attack is impossible (O’Connell, 2012, p. 8,9).

In most cases such attacks are operated beyond the national territory and are not continuing for a long time. In those cases, it is difficult to identify the offenders just at the time of their carrying out of offences. For example, the Stuxnet virus in Iran is triggered from the US and Israel (Business Insider Australia, 2012).

Once it has been done, it is difficult to detect the senders of the virus at the time of the wrong doing. Again, counter attacks require ‘proportionality’ which is also difficult to measure. For instance, cyber-attack in Estonia makes unavailable of Estonia’s emergency services for almost an hour. It is found that the perpetrators are Russian soldiers and the source of DDoS is identified within the Russian territory (Hinkle, 2011, p. 13). If Estonia attempts to launch a reciprocal cyber-attack to Russia, the effects would not be proportionate in comparing Estonia’s small system to Russian’s huge network. Again, appropriate timing to apply counter attack is important as such attack should be within ongoing internationally wrongful action (Article 52(3) (a)). Therefore, launching counter attack is not possible due to the legal prohibition.

Technical Issues

Technical issues are vital in attributing cyber-attack. As attribution depends on the identification of the location of perpetrators (Wheeler et al., 2003, p.1),

challenges include probability of destroying internet and crossing nation state's jurisdiction. For technology application in identifying a source of attack beyond state's territory, cooperation among nation states is required (Hunker, 2008, p. 4). For example, while a state could track out a server of cyber invasion through a complex and time-consuming system, it may not identify the attackers as they use innocent systems in their course of actions (Graham, 2010, p. 92). Another challenge in attribution is recently predominant virus- the distributed denial of services (DDoS). The fact is that victim states cannot take counter measures or counter attack without the highly dependable attribution. For instance, NATO cannot respond to Estonia's appeal for assistance as NATO does not know how to solve the issue (Hunker, 2008, p. 7). Therefore, due to the above technical difficulties counter cyber attack is not viable.

Furthermore, technical challenges are coupled with the jurisdictional factors (Waxman, 2011, p. 443). Investigation of a route of cyber-attack through technology requires international permission, coordination and cooperation when it is beyond a state's territory. Challenges are inevitable especially when this attack comprises of hundreds of computers of different countries.

Lacking of international agreements and technical standards in tracking the attackers hardens the supervision, maintenance of record and sharing of information. For technical implementation in counter attack, international laws and agreements should be developed on the cyber-attack perspectives (Lipson 2002, p. 17). Again, technical challenges involve in detecting entry points as the physical identity can be concealed from the IP addresses in many ways including prepaid internet address cards where personal identification is not required (Hunker, 2008, p. 15). Hence, it is a great issue to combat as the attackers can cover them with anonymity. Therefore, as identification of a source of attack is challenging, so launching destructive counter attack is impossible, because, International Law suggests that counter attack must be executed toward the distinct perpetrators as self-defense not as revenge.

Risk Issues

Main risk is to control the action toward the projected target. For example, the Stuxnet affects 40 percent computers out of Iran including India, Indonesia and Russia (O'Connell, 2012, p. 4). So launching counter attack will not only affect the US and Russia, but neutral states also. Again, due to the aforementioned anonymity, evidence which is essential to prove an offender who performs the international wrongful actions will be a risk to collect. Hence, when a state launches counter attack, wrong personnel or state may be targeted which amounts to great risk as it may cause cyber warfare.

Furthermore, risk prevails in the cases of confidentiality, integrity and availability of information. An organization or a nation state does not want to disclose the actual damage or what type of information has been leaked out because of the confidentiality and its image crisis. So, when technology can trace out source of attack through back tracing, it is also challenging to unveil the information due to the secrecy of the state or organization. For example, Iran's Head of nuclear plant expresses that only personal computers of staff are affected by the Stuxnet and it does not cause serious damage to government (Markoff, 2010), whereas it destroys about fifth of Iran's nuclear centrifuges (Business Insider Australia, 2013). Again, in Target, risk involves with disclosure of their customers' stolen information that damages their image. Therefore, discretion on actual damage does not support counter attack where proportionality must be considered according to the International Law. It is required because the loss of information availability and lack of professional integrity may lead counter attack to a wrong direction.

Findings and Conclusion

From the above discussion, it is found that according to the International Law, the interference in a state's land, water and air spaces is restricted. Therefore, counter attack is not permitted unless physical damage amounts to self-defense does not occurred. Counter attack is also not possible due to several technical difficulties including identification of the specific aggressor. On the same way, risks are significant barriers in case of executing counter attack. Because risks are associated with the misidentification of system and attacker along with the uncontrolled operation.

Therefore, victim nations like Bangladesh, Estonia etc. or organizations like Target cannot be able to launch destructive counter attack. For neutralizing such attacks, international law should provide relevant regulations and the victim countries and organizations require risk-free controlled operational capability through potential technology. Therefore, to combat the cyber attacks and the challenges of new cyber era, drafting treaty and regulations in national and international levels are strongly recommended where clarification of situation and specification of counter action should be mentioned.

References

- Beegle, L.E. (2007). Rootkits and their effects on information security. *Information Systems Security* 16: 164–176.
- Broad, W.J., Markoff, J. & Sanger, D.E. (2011). Israeli test on worm called crucial in Iran nuclear delay. *New York Times*. Available at http://www.nytimes.com/2011/01/16/world/middleeast/16stuxnet.html?_r=0
- Buchan R (2012) Cyber Attacks: Unlawful uses of force or prohibited interventions? *Journal of Conflict & Security Law* 17: 211–227
- Business Insider Australia (2012). *Obama Administration Admits Cyberattacks Against Iran Are Part Of Joint US-Israeli Offensive*. Available at <http://www.businessinsider.com.au/obama-cyberattacks-us-israeli-against-iran-2012-6#ixzz1wYnaa3jK>
- Business Insider Australia (2013). *The Stuxnet Attack On Iran's Nuclear Plant Was 'Far More Dangerous' Than Previously Thought*. Available at <http://www.businessinsider.com.au/stuxnet-was-far-more-dangerous-than-previous-thought-2013-11>
- Graham, D.E. (2010). Cyber threats and the law of war. *Journal of National Security Law & Policy* 4: 87-102.
- Hinkle, K.C. (2011). Countermeasures in the cyber context: one more thing to worry about. *The Yale journal of International Law* 37: 11-21
- Irani, B. (2021). Cyber attacks hit over 200 organizations including Bangladesh Bank, BTRC. *Dhaka Tribune*. Available at <https://archive.dhakatribune.com/bangladesh/2021/04/02/cyber-attacks-hit-over-200-organizations-including-bangladesh-bank-btrc>
- Hunker, J., Hutchinson, B., & Margulies, J. (2008). Role and challenges for sufficient cyber-attack attribution. *Institute for Information Infrastructure Protection*, 5-10.
- Karim, S.S. (2016). Cyber-crime scenario in banking sector of Bangladesh: An overview. *The Cost and Management Journal* 44:2, 12- 19.
- Karnow, C.E. (2005). Launch on warning: aggressive defense of computer systems. *The Yale Journal of Law and Technology* 7: 87-102.
- Lipson, H.F. (2002). *Tracking and Tracing Cyber-Attacks: Technical Challenges and Global Policy Issues*. Carnegie Mellon University Software Engineering Institute.
- McLaughlin, K.L. (2011). Cyber attack! is a counter attack warranted? *Information Security Journal* 20: 58-64.
- Markoff, J. (2010). A silent attack, but not a subtle one. *The New York Times*.

-
-
- Messmer, E. (2007). Counterattack: bomb ‘em one way or the other. *Network World*.
- O’Connell, M.E. (2012). *Cyber security and international law*.
- Pagallo, U. (2015). Cyber force and the role of sovereign states in informational warfare. *Philosophy and Technology* 28: 407–425.
- Pellerin, C. (2010). *Cyberspace is the new domain of warfare*. U.S. Department of Defense.
- Petras, C.M. (2002). The use of force in response to cyber-attack on commercial space systems — reexamining self-defense in outer space in light of the convergence of U.S. military and commercial space activities. *Journal of Air Law and Commerce*, 67: 1213–1263.
- Schmitt, M.N. (1999). Computer network attack and the use of force in international law: thoughts on a normative framework. *Columbia Journal of Transnational Law* 37.
- Waxman, M.C. (2011), Cyber-attacks and the use of force: back to the future of Article 2(4). *The Yale journal of International Law* 36.
- The Heritage Foundation (2014). *Cyber Attacks on U.S. Companies in 2014*. Available at <http://www.heritage.org/research/reports/2014/10/cyber-attacks-on-us-companiesin-2014>
- Wheeler, D.A. and Larsen, G.N. (2003). *Techniques for cyber attack attribution*. Institute for Defense Analysis.

Necessity of Alternative Approaches in Crowd Management

M A Sobhan¹

Abstract: *The study embarks on the alternative approaches to effective crowd management. Use of force on angry mob may incur lots of hazards and endanger human rights in the process. Crowd management with normalcy in public life may require finding out, applications and implementations of alternative approaches. In particular, negotiation, motivation, de-escalation techniques and diverting the potentially hostile crowd are alternative approaches in modern-day crowd control methods.*

Keywords: crowd management, alternative approaches, human rights, use of force

Introduction

At present, the serious image crisis that the police force undergoes a not only in third world countries but also in developed world. Now-a-days, the nature of mass demonstrations and protests across the world has undergone a phenomenal change. At the same time, law enforcement practices and protocols have transformed to a great extent. Therefore, traditional tactics and strategies to curb mass demonstrations by the law enforcing agencies have often proved obsolete and sometimes catastrophic. Demonstrations and public protests are not infrequent but they have taken new form, sometimes far away from systematic and organized nature. The anonymity of the participants creates a kind of uncertainty since event organizers are often unaware of the identity or intentions of each individual. Unpredictable behaviours of the crowd often lead the whole plan undertaken by the law enforcing agencies potentially ineffective.

Application of force in crowd control is a common phenomenon across the world. But this strategy has been failed in sustainable crowd controlled activities. Now, the approaches of crowd controlled are changed to crowd management. Crowd management typically appears more relevant when any event draws a big crowd. People act differently when they are part of a large crowd consisting of unknown individuals. Wave of strong emotion such as joy, anger and excitement may sometimes quickly spread and take a dangerous turn. In these circumstances conventional police actions might worsen the situation. Studies of crowd behaviour and law enforcement after-action reports have led to the development of new strategies and tactics for combating the agitation of crowd.

1. Commandant, Police Special Training School (PSTS), Betbunia, Rangamati.

Before using force, it is pragmatic to assess the mob psychology- why the crowd formed and what are the targets of the crowd. Therefore, instead of undertaking conventional crowd control techniques, alternative pragmatic problem solving measures are needed to be assessed and introduced.

Lack of proper crowd management procedures can lead to catastrophic situations ranging from the vandalism of economic and business establishments, destruction of property, individual injury to outspread of anarchy. Crowd management with normalcy in public life may require finding out, applications and implementations of alternative approaches

Literature Review

Crowd

Generally, by crowd refers to a large group of people gathering together in an organized, disorganized or unruly way. From psychological point of view crowd refers to a large group of people who gather in a place either being agitated or complacently. Crowd often keeps marching along the lanes, roads, streets, highways either in protest of an accident occurred previously or an action or actions, activities or measures undertaken by the authority or in celebrations of an event or occasion. Protesters, crowd or processions often come down to the streets and paralyse normalcy of life or disturb normal movements of citizens. Crowd are often charged with emotional exuberance and frequently become violent while ventilating their emotional exuberance and specially when every single individual of a crowd realizes that they are being neglected, ignored or pressure cooked by the authority or by the law enforcing agencies or they when feel that they have failed to draw the attention of the authority concerned, the public and the law enforcing agencies. Thus, a crowd may be defined based on the common purpose of a particular crowd has in their mind or by a set of emotions during demonstrations, processions, displays, exhibitions, celebrations of festivals, occasions, events, incidents or a procession brought out in protestation of an accident, incident or actions and activities they are grieved about.

The term “crowd” is sometimes defined in contrast to other group nouns for collections of humans or animals, such as aggregation, audience, group, mass, mob, populous, public, rabble and throng. Vincent Price while differentiating between masses and crowds states that crowds are defined by their shared emotional experiences, but masses are defined by their interpersonal isolation (Glynn et al, 1999).

Formation of Crowd

It is common that a crowd is formed from the frustration or deprivation. According to Thouless "A crowd is transitory contiguous group organised within completely permeable boundaries, spontaneously formed in achieving some common interest." A crowd is quickly created and quickly dispersed. It is an unorganized manifestation occurring in a world of organization."

Convergence theory holds that crowd behaviour is not a product of the crowd, but rather the crowd is a product of feeling togetherness of like-minded individuals (Greenberg, 2010; Stephen and Kazdin, 2000). Floyd Allport argued that "An individual in a crowd behaves just as he would behave alone, only more so (Floyd, 1924). Furthermore, convergence theory holds that crowds form from people of similar dispositions, whose actions are then reinforced and intensified by the crowd. Convergence theory claims that crowd behaviour is not irrational; rather, people in crowds express existing beliefs and values and the reaction of the mob reflects the rational product of widespread popular feeling (Stephen and Kazdin, 2000).

Crowd Behaviour

Le Bon (2006) stated that crowds are protected by the anonymity of crowds and that individual responsibility is discarded forgetting their normal values and ability to think and to reason. Crowd behaviour is heavily influenced by the loss of responsibility of the individual and the impression of universality of behaviour (Greenberg, 2010; Hans, 1988). Generally, researchers in crowd psychology have focused on the negative aspects of crowds but it is relevant to mention here that all crowds are not volatile or negative in nature (Stephen et al, 2000). Crowds can reflect and challenge the held ideologies of their sociocultural environment. They can also serve integrative social functions, creating temporary communities (Greenberg, 2010; Stephen and Kazdin, 2000). S

Assessment of crowd behavior plays substantial role in crowd management. At first, one has to study or know the nature of the crowd whether they are calm, quiet, agitated, angry, or violent, and completely uncontrollable. An intelligent police officer will always remain alert and vigilant whether the crowd will turn violent or not. Crowd may be calm and quiet and the very next moment may be agitated.

They may get involved in vandalizing establishments, throwing stones or set fire on shops, stalls, business firms and houses. He must have a thorough knowledge of the forces and officers who are there under his disposal and how they will react and respond to manage the crowd. Crowd behavior depends on how they are groomed and how they are nurtured (Le Bon, 2006). Therefore, it is also

vital to know the type of crowd- whether they are students, women, labourers etc. In addition, it is important to know the volume of crowd and the target of crowd (their plan).

Crowd Classification

Crowds can be active (mobs) or passive (audiences). Active crowds can be further divided into aggressive, escapist, acquisitive, or expressive mobs. Aggressive mobs are often violent and outwardly focused. Escapist mobs are characterized by a large number of panicked people trying to get out of a dangerous situation. Acquisitive mobs occur when large numbers of people are fighting for the possession of limited resources. An expressive mob is any other large group of people gathering for an active purpose. Civil disobedience, rock concerts, and religious revivals all fall under this category (Greenberg, 2010). The categories of aggressive and expressive crowds mainly fall under the purview of this study.

Statement of the Problem

There is a communication and psychological gap between the law enforcers and general people. The attitudes of the maximum members of law enforcers towards general people are not friendly. Public perception has gained a strong hold that the law enforcers are their enemy. In most cases misrepresentation and exaggeration of media for gaining cheap popularity, pro-public meekly writers and lion-hearted intellectuals who are always sympathetic to the mass hold the law enforcers responsible for their stern standing against the chaotic mob. It is also reported that generally the law enforcers in the third world countries use force unusually and lethal arms directly to manage even a normal crowd. There are procedures for using forces, but in most cases, they do not care to follow the legal aspects, human and citizen rights issues and the consequences of such extreme standing. The law enforcement agencies carry lethal weapons, guns instead of sticks or gas guns. Law enforcing agencies has a typical colonial attitude to control the crowd always by applying forces.

Objectives

The broad objective of the study is to discuss alternative crowd management approaches. The specific objectives are as follows.

1. To discuss relevant case studies related to crowd management.
2. To identify alternative crowd management approaches

Methodology

This research has been conducted on the basis of the secondary information. Data have been collected from books, booklets, newspapers, publications and websites.

Discussion: Case studies of Alternative Approaches of Crowd Management:

Case study 1:

It is a story of Kishoreganj district located at the north-east part of Bangladesh. The incident occurred in 2006. Dead at night, some assigned police members of Bhoirob police station launched an operation in a remote area to apprehend some criminals who were absconding. Smelling something bad, the villagers used the loud speaker of the mosque to make the villagers alert that dacoits have invaded the village. Accordingly, the villagers made a united and organised approach and at one stage they cordoned all the police personnel. Being informed, the Upozila Nirbahi officer (UNO) and the Officer-in-Charge (OC) of Bhoirob police station rushed towards that village with extra forces to rescue the police members. Then, the villagers again made a cordon and started to beat the newly arrived forces and officers and imprisoned all including the UNO and the OC.

Instantly the UNO talked to the Deputy Commissioner (DC) of Kishoregonj district over telephone apprising him about the gravity of the situation. Deputy Commissioner (DC) talked to the then Superintendent (SP) that can you tackle the situation or I will take alternatives. SP replied what happened please clarify me first. Then DC informed the matter to SP. SP replied the DC do not worry, you give your additional deputy commissioner (ADC), I am giving my additional SP they altogether go to the place of occurrence. Then, SP started to phone the journalists, public representatives, dignified men and said them today I am requesting you for a humanitarian works not for collecting news. You please go the spot and save the lives of UNO and my police forces. Meantime a group of teachers, journalists, public representatives, students and known figures reached the spot, briefed and motivated the villagers to calm down and release the UNO, OC and all police personnel. Realizing the fault, they agreed and released all with honour and without inflicting any harm over them. In this way, without applying force, with the help and cooperation of general people, a big causality was avoided.

Case study 2:

The incident happened to take place during the regime of caretaker government of Dr Fakruddin Ahmed at 2008. One of the central leaders of a leading political

party was released from jail. I was the in charge of the key point. I was fully equipped and had forces and officers with me. I did not know that the party followers would become so much emotional seeing their leader.

Suddenly the situation turned so violent that it seemed very difficult to control the supporters. However, I changed my mind not to apply force instead the situation being worsened. I instructed my forces to carry the main leader through a narrow lane to avoid casualty. Still the number of leaders and supporters was so huge that momentarily the area became a flux of people and processions. To manage the situation I decided to divert the procession separating it from the leader.

We got a different procession which was full of young men and all were giving slogan with loud voice. Here, it is reported that each and every procession has a common rithom or motivation. If anyhow, one can motivate the leader, the whole procession can be convinced. So, I went forward the procession and find out the leader and said the leader ‘brother you have to follow that way’ and then the leader said yes we have to follow that road and the procession left the place instantly. Therefore, we were successful in our planning. Thus I became successful in managing the crowd by applying an alternative plan.

Case study 3:

The incident occurred in 2011. The then opposition party of Mymensingh district arranged meeting consisting of about 6000 people. The problem arose when journalists of electronic media demanded to the leaders to carry out their procession by crossing the traffic island for the sake of televising the procession on television live. The leaders committed to pass the procession through the traffic island of the city.

On the other hand, the officers in charge of Kotwali police station didn’t allow the procession to cross the traffic island of the city on the excuse that it will paralyse the whole town. Behind his mind he had also the fear that the Deputy Inspector General will rebuke the police officer for not taking precautionary measures to avoid traffic jam and make the plying of transports smoothly. Only a day before this incident police members were beaten across the country. So, that day we decided not to allow anybody pass the traffic islands with procession. However, the security layer was formed in front of procession. To manage the situation tactfully a huge police force was deployed with two Additional Police Supers including me. We vacated one of the two roads to disperse the crowd. Still confrontations between the crowd and the police force could not be avoided. In this situation, I decided to talk with the leaders. Accordingly I communicated with them. I tried to motivate. I negotiate with him giving the

choice to hold the meeting in the vacant road. Finally, they were convinced and delivered their speech standing on the road we evacuated and silently left the spot without making any traffic jam.

Case study 4:

It is another event of Mymensingh district occurred in 2011. The government enacted the “National Women Development Policy in 2011”. The students of a Madrasa called a meeting and blocked roads with the holy Quran in their hands. They had the complaint against one portion of the law. I was serving as the Additional Superintendent of police and the commander of all deployed forces and officers of that event. The Officer-in-Charge of the concerned police station tried to convince them for a long time but failed. Police officers and soldiers were adamant to apply forces to disperse the student.

At last, the superintendents of police instructed me to communicate with the Ustads (teachers) to calm down the students. We communicated with the Principal of that madrasa and he just made a gesture and uttered a few words towards the student and within a moment all the students left the place and went back to the madrasa. In this way, we managed such a sensitive assemblage and situation without applying force.

Findings – Alternative Crowd Management Approaches

Courage

Courage is the mental or moral strength to overcome, withstand danger, fear or difficulty. It is said that brave leaders choose courage over comfort. Officers serving in the police department must have the gut to tackle any situation however difficult or dangerous it is in cool brain. It is necessary to face the situation with courage without fleeing from the ground. If the commander flees from the field, definitely his/her command will fail. Without the commander, the forces and officers will be left guideless and will suffer from indecisiveness. A commander will have to observe the situation critically and finally will take necessary actions to solve the problems.

Intelligence

Collecting information by using intelligence well ahead of any of the gathering or meeting; chalking out plans to manage the crowd by applying all sorts of alternatives and critical thinking are key things in cowing down the crowd successfully and solving problems peacefully. Intelligence’s information has to be collected through the special branches, other agency, community people,

village police, journalists, political figures, public representatives and general people. Moreover, the information could be collected from social media, newspaper, lift lets, radio and television channel. However, information must be collected through reliable sources. Any kind of misinformation may damage the whole planning. After analysing that information the officer-in-charge working in the field/ground will have to take prompt, perfect and effective action to give a peaceful ending of the event. Artificial intelligence may also be used by the police to have a view of the crowd movement and assess the crowd size. At the same time, they must monitor anything which is suspicious. CCTV cameras can be used to monitor various movements across the crowd (PTI, 2019).

Negotiation

Effective communication is important for negotiation. Ninety per cent of the success rate of effective negotiation depends upon the attitude of the manager and the rest of the ten per cent depends on the techniques used by the concerned manager. Negotiators become successful and fruitful because of strong communication links, skills, relationship-building, trust-building and confidence building between the two parties- the crowd and the police managers. Personality, promptness, intelligent handling of the existing situation, reading of the prevailing conditions of the surrounding may help the manager in maturing a successful negotiation. The manager also has to keep in mind the socio-economic and political circumstances prevailing at that very moment in that very spot, in the town, city and even across the country.

Researches show that negotiations through face to face dialogue with the protest organisers rather than through distance communication as such by talking over telephone or talking through via and media prove much more fruitful to accomplish the job of crowd management peacefully. Discussions and negotiations with the protesters well-ahead of any crowd gathering may result in peaceful solution of the problem. The manager cum negotiator may make the protesters or the crowd not to bring out procession or not to go for the organizing the gathering or holding the meeting. If the demonstration is already in progress the concerned police officer may go for negotiations with both the owners and the labourers or labour leaders and obtain assurance of mitigating the legal demands of the agitators from the owners or managers of the factory. Negotiations in presence of the police will help to develop confidence between the two parties. Therefore, in this case the agitated labourers or labour leaders may not go for bringing demonstrations and violent protests. Anyway, during negotiation procedures, a thorough knowledge about the position of the police and the counterpart or the organization is of a massive importance. Negotiations in a friendly environment, with respect, with confidence and without any prejudice are supposed to bring

about a positive result. Finally, development of consensus and reaching an agreement with the counterpart/organization or party is prerequisite to manage crowd as well as conflict.

Motivation

Motivation can be conceived of as a cycle which influences behaviours, attitude and thoughts. Each stage of the cycle is composed of many dimensions including attitudes, beliefs, intentions, effort, and withdrawal. Most psychological theories hold that motivation exists purely within the individual whereas socio-cultural theories consider motivation as an outcome of participation in actions and activities within the cultural context of social groups (Richard and Luis 1994).

For effective motivation, the commander has to talk with the key personnel behind the crowd; leaders, teachers and guardians. Realizing and understanding their problems by listening to the law enforcing agencies may find a quick an easy solution whereas to cow down the crowd by applying force may often prove suicidal, boomerang and fatal. It is saying that one cannot motivate more than three persons. So, try to convince the key personnel by briefing, counselling, listening as much as by motivation. Moreover, trying to calm the situations by delivering emotional but pragmatic speeches sometimes becomes very effective

De-escalation technique

De-escalation techniques can be an effective intervention tool that not only helps individuals who are in crisis but also reduces police liability and avoiding injury due to casualty. It is necessary for law enforcers to keep calm and alert all the while. Having proper knowledge of the surroundings; taking notes of possible happenings, keeping tents and first aid equipment always available and facing the situation in uniform are required to be ensured. Talking to the individual frankly and collecting information in a friendly manner and rendering human services like distributing water/food among crowd help to de-escalate the overall mood of the crowd.

De-escalation would be successful by effective communication and active listening skills, as well as other role-playing, which involves the demonstration of and practice using the desired skills (Oliva et al., 2010). There are some reasons behind every movement or procession. The wise law enforcers may express their solidarity with their problems. Sometimes, the crowd are formed for the right cause or betterment of society. The law enforcers may acknowledge the good initiative taken by the crowd. If the processions happen to take place because of torture or rough behaviour of the law enforcers, the chief commander may regret or apologize for the incident. In addition, the commander of law

enforcers should clarify the facts and also tell the crowd about the consequences. Furthermore, the law enforcers may make a request or suggest the crowd or the party or the leader or the organization instead of ordering them. Ordering stands for dominations which may fuel the escalation of the agitation whereas suggestion and humbleness may open the golden opportunity for solution.

Divert the crowd / Change the direction of crowd

Diversion of crowd is important to lessen the casualty of the properties. Some key point's installations, markets and establishments along the road side should be marked or identified and treated as vulnerable spots. Moreover, the highway should not be blocked for a long time. So it is needed to divert the procession/ crowd. By the diversion both parties will incur benefits. Firstly, the law enforcers will get less risk and on the other hand the crowd can perform their programme smoothly.

Tactical Redeployment

All the time it is not wise to cling to the strategic policies. Crowd psychology says, the behaviour of individual is different when he or she becomes the part of a crowd. It has been found that sometimes the crowd become agitated to see the law enforcing forces. So, to avoid conflicts and to keep situation calm and quiet, the forces need to avoid proximity of the crowd.

Try to Solve the Problems by the Controlling Personnel

Generally students, labourers and women are controlled by different parties, leaders or bosses, even he or she may be an outsider. Since the works and portfolios of leaders are different for various groups, all the problems of different groups cannot not solved by the same leaders. For this the law enforcing agencies need to identify the right man to solve the particular problem. So, the authority concerned has to find out the problem and communicate with the right leader to mitigate the said problem.

Conclusion

Crowd management involves planning and directing the crowd in a way that the crowd will behave as is expected to be managed by the law enforcing agencies in a particular circumstance and the crowd will remain confined, moves at and around the scheduled terrain or spot where they gather together to celebrate or attend or demonstrate for an event, occasion, accident or festival and thereby to achieve their goals. Generally, a procession or a crowd is formed because of long term deprivation or for celebration of the privileges and achievements

they have acquired. Always, there are some reasons behind a crowd. As they are the human beings, they should be addressed smoothly. They should be handled logically. Proper respect and honour require to be shown towards the crowd. It is to be noted that application of force might lead to the casualties, catastrophe and tragic death of human life and destruction of properties and even may result in a never recoverable loss. A small incident may often shake the whole of the nation tarnishing the image of the police, government and the nation as well in internal platforms. To avoid catastrophic consequences all sorts of alternative approaches including negotiation, motivation and de-escalation procedures must be taken into account to manage the crowd. It is known to all that crowds can be violent and anarchy may be let loose unless they are managed properly. The conventional measures often undertaken by law enforcing agencies leads to casualty and destabilizing the situation. Alternative techniques reduce the possibility of catastrophe and casualty to almost zero. So thinking and diving deep into alternative crowd management strategies are the only panacea to avoid a disaster successfully and peaceful.

References

- Floyd, A. (1924). *Social Psychology*. Boston. p. 295.
- Glynn, C. J., Herbst, S., O'Keefe, G. J. and Shapiro, R. Y. (1999). Public Opinion. George Bishop. *Public Opinion Quarterly*. 63(4):628–629.
- Greenberg, M.S. (2010). Corsini Encyclopedia of Psychology.
- Hans, T. (1988). “Psychology of Crowds Revisited”. *Contemporary Psychology*. 33(11): 954.
- HMIC, Her Majesty's Inspectorate of Constabulary (2009). *'Adapting to protest'*. HMIC. London.
- Le Bon, G. (2006). *the crowd, the study of the popular mind*. Cosimo.
- Oliva, J. R., Morgan, R. and Compton, M. T. (2010). *A Practical Overview of De-Escalation Skills in Law Enforcement*: 15-29 | Published online: 04 Jun 2010.
- PTI (Press Trust of India), 2019. *Artificial intelligence for better crowd management at Lucknow*. Last Updated at January 8, 2019 16:50 IST.
- Richard, R., Moll, Luis C. (1994). *A Sociocultural Perspective on Motivation*. Motivation: Theory and Research. Hillsdale, NJ: Lawrence Erlbaum Associates, Inc.
- Slevin. M. D. (2011). *The Policing of Peaceful Protests: Reaction or over reaction. A critical evaluation of the impact of the use of 'negotiated management'*. University of Portsmouth. Institute of Criminal Justice Studies.
- Sobhan, M .A. (2016, December 11). Every thing can be solved without using force (Bengali; Shakti Proyog Na Korao Sabkisho Shanto Kora Jai). *The Daily Ittefaq*.
- Stephen, R., Kazdin, A. E. (2000). Alan E. editor in chief (ed.). *Encyclopedia of psychology*. Washington, D.C.: American Psychological Association. 374–377.

Provisions of the UN Convention on Contracts for the International Sale of Goods and the Sale of Goods Act 1979: A comparative study

Fahima Mallick Monmi¹

Abstract: *The international contracts between commercial entities from different countries, is vital for international trade. Primarily, this is overseen by the United Nations Convention on Contracts for International Sale of Goods (CISG) 1980, and its notable feature is its nearly absolute authority to scrutinize the substances of contracts between commercial parties. However, it often incites great debate as to whether or not the CISG brings forth processes which may be contradictory to the already existing measures of a particular country's domestic law in relation to international sale of goods. the purpose of this essay will be to analyse the underlying factors and merits of both these provisions to ascertain on a balance as to which provision is superior in the international states of affairs. In the UK, provisions regarding international sale of goods are mostly governed by two factors, which are the Sale of Goods Act 1979 and the common law relevant in the field. There have been many adjustments and measures to make sure that the CISG can be properly accommodated in the United Kingdom's legal provisions in light of their current legal system. These can provide us with insights on modern legal systems*

Keywords: international trade, modern law, CISG, SOGA, legal reform

Introduction

The CISG is the considered to be the most robust among the many legal provisions created for international trade. In fact, its effectiveness meets the standards of countries in the Scandinavia including Norway, Sweden and Finland has been deemed as national law. It is both applied as an international treaty as well as a domestic sales regulation. Another example would be SOGA, an act which helps the UK government to regulate the flow of contracts. Moreover, its success in the International Trades can be seen in the choice of British Courts as well as the integration of English Law clauses in contracts to aid in the resolution of dispute with greater efficacy due to its less contradictory nature.

However, despite having similar remedies for the breach of contract it has not been applied by the UK due to its nature of keeping contract avoidance as a last resort in cases of fundamental breach; although, the latter part is due to the critical nature of international business. Therefore, in contrast the SOGA is

1. Barrister-at-Law (Lincoln's Inn, UK)

more flexible regarding the issue of contract avoidance even in the case of small non-conformities. This research paper is intended to help international entities to choose the governing law of their international sales contracts best suited to them.

Objectives of the Study

The objective of the study is as follows:

To compare between the United Nations Convention on Contracts for the International Sale of Goods and the common law and Sale of goods Act (SOGA) 1979 of United Kingdom (UK) .

Rationale of the Study

This research was “Comparison between the provisions of Convention on Contracts for the International Sale of Goods (CISG) and Sale of Goods Act (SOGA), which framework provides better facilities for the international sale of goods contract?” This research will be adequate to advise international entities, particularly the UK and UN member-based, who conduct international contracts for the sale of goods regarding the difference between the provisions of CISG and SOGA as well as which one will be the best choice for them.

Scope of the Study

The title of the research project is “Comparison between the provisions of Convention on Contracts for the International Sale of Goods (CISG) and Sale of Goods Act (SOGA), which provides better facilities for the international sale of goods contract?” Both CISG and SOGA apply during international trade. Therefore, if a British company engages in an international sale contract with another foreign company from a UN signatory country, then they can choose between CISG or SOGA as their governing law. Through the research paper, they will be able to ascertain the nature of the provisions and based on it they can determine which legal framework will be the best choice for them to conduct their business.

Methodology of the Study

The study was documentary analysis type. Data and information were collected from secondary sources such as Books, Research Report, case laws, law related Journals, Internet and different websites.

Results and Discussion

Field of Application of Sale of Goods Act 1979 (SOGA)

The United Kingdom relies on a wide and interconnected system of contract law, which primarily consists of statutes and regulations which include the Sale of Goods Act 1979 which is further complemented by the 1982 Supply of Goods and Services Act and the Supply of Goods Act. Now, the overall features which define the Sale of Goods Act 1979 shall be discussed. Firstly, it requires that goods provided by the seller to the buyer to match the description¹ provided and ‘conform to the contract’.

Secondly, it must also be suitable for the purpose² and must be of satisfactory quality³. In addition, it also details the regulations as well as the remedies available to buying parties, as well as the transfer of risks and properties between the contracting parties. As Lord Lowry had stated previously, “today’s purchase may become tomorrow’s sale.”⁴ Thus, making it imperative for the Sale of Goods Act 1979 to enable the flow of commercial transactions between contracting parties already placed in the market to be further aided by paperwork to allow for the purchaser to sell the product to another vendor.

UN Convention on Contracts for the International Sale of Goods 1980 (CISG)

In part I of the CISG, it is stated that a contract falls within the scope of CISG when the contract satisfies the conditions specifically for the sale of goods and the transaction is of international nature⁵. In contrast, contracting parties may choose to avoid the CISG application under Article 6 of CISG. Moreover, six types of contracts are excluded as per Article 2 and they are namely auction sales, consumer contracts, negotiable instruments, energy, ships and aircrafts albeit, contracts of this nature are not excluded in regards to sales of goods.

However, this does not exclude the sale of goods. A common example of CISG’s application being removed can be found in cases of oil giants such as Shell and BP and also including a considerable amount of commodity merchants. Even though, CISG’s flexibility allows for the smooth flow of transactions regarding the transitions of goods, contracting parties mainly benefit from Article 6 and 9.

In terms of the UN members, both the CISG and SOGA can be used as governing laws amongst themselves. Though, British Law is generally accepted around

1. S13, SoGA 1979

2. S14(3) SoGA 1979

3. S14(3) SoGA 1979

4. *Bunge v Tradax Export* [1981] 1 WLR 711, HL

the world, it is nonetheless entirely dependent on their subjective choices as to which legal framework would be the most suitable.

Differences of the two statutes

Good Faith

There are no express provisions or application relating to Good Faith in English Law nor does it emphasize it in regards to contractual execution. Whereas, the Convention provides in Article 7(1) that contracting parties must act in good faith during commercial transactions. In *Re Moore and Co*⁷, there was a contract to deliver 30 pieces of canned fruit to the defendant by the vendor.

The court declared that the element of good faith would not provide as a defence to the seller as there had only been 24 pieces of canned fruit and thus did not conform to the description and quantity agreed upon by the contract. Hence, the court states that the defendant may reject the products. Except for specific types of contracts. English courts have been unwilling to recognise an implicit universal duty of good faith⁸. This is mainly done so to avoid uncertainty as the overall nature of the actual obligations can be subjective and additionally, it can become a hindrance to the overall contractual freedom of the parties.

Conformity of the Goods

CISG

Article 25 of the convention states that “A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result”⁹.

This has been held as a key distinction between the SOGA and the convention as a whole. Though, there have many criticisms regarding the ambiguity and scope as it amalgamates different legal systems to lay a foundation for the definition of fundamental breach and thus makes it onerous for the drafters to reach a unanimous decision regarding the constituents of a breach which may allow for contract avoidance¹⁰. There is no mention in the Convention as to what is a fundamental breach overall requirements are and it simply substitutes it with a broad principle which in turn encompasses both unexpected and justified non-

5. S.Kanojia, Does English Law Provide the Best Framework for the Sale of Commodities? A Comparison Between English Law, Incoterm and CISG.

6. Ibid 5.

7. 1921] 2 KB 519.

performance and moreover deficient performance and full failure are also seen as breaches by the convention.

There is no example or definition of what actually constitutes a fundamental breach or an issue of its level in the convention. For instance, the word detriment despite having no definition in the convention it has been applied as a principle across a broad range of issues such as customer loss and loss of resale and even all forms of losses financial or otherwise¹¹.

Its main purpose is to prevent parties from opting the cancellation of contracts despite their being no harm. The general principle of fundamental breach followed here mainly occurs when one party deprives the other of his entitlement per the contract and thus causing harm. This can be ascertained using the foreseeability test laid out by Article 25 which requires a both subjectivity and objectivity test of the CISG if the breaching party can prove that the nature of the harm caused to the injured party was unforeseeable then this can prevent the injured party from terminating the contract¹².

Depending on the overall substantiality the breaching party may argue that it was unforeseen and bar the innocent party from avoiding the contract. According to the rule above, this disconfirmation of the goods can have a fundamental effect and even deprive the other party of both their entitlement as well as the ability of contract avoidance.

SOGA

On the other hand, contractual conditions are given high priority in English Law insofar as giving the right to void a contract should it breach condition and this can be seen as a stark contrast to the procedures and rules applied by the convention. Its strictness can be seen in its application in the case of *Arcos V Ronaasen*¹³, where despite the product being of good quality it was found to be 12 inches thicker.

Therefore, the court allowed the customer to reject the goods despite the breach being minor. On the other hand, if this case were to be tried under the CISG the merchant in *Arco* would be held liable but the key difference would be that the seller then, would not be able to terminate the contract due to the product's non conformity. Unless it can be proven that the product's non conformity has caused a substantial amount of harm. In English Law however, the buyer is not required to inspect the goods after delivery as in Article 38 of the convention

8. M. Brown, Good faith is there a new implied duty in English contract law?

9. Article 25, CISG 1980.

10. B. Ahmed, Avoidance of Contract as a Remedy under CISG and SOGA: Comparative Analysis.

unless the contract expressly stated or unless the buyer requests on their own.

Therefore, disconformity under the convention will only occur if it can be proved to have caused substantial harm to the party as well as breaching a fundamental effect. This further illustrates the burden placed on the parties to prove any form of disconformity and general nature of the convention being prone to dismissing what it considers to be minor breaches in regards to the products.

Therefore, it is agreed that the convention is a bit narrow compared to the SOGA and can even be burdensome on the parties if they cannot prove that the breach was substantial. In contrast, no such burdens have been placed on parties trying to prove disconformity and even going as to allow them to show non conformity of the product regardless of the severity of the defect as well as treat a breach in the contract with adequate scrutiny as a condition of the contract.

Termination of Contract

CISG

The most important difference between CISG and Soga is their approach and overall concept towards contractual avoidance and termination. The main provisions for contract termination which the buyer can use under the convention is laid out in Article 49 (1) (a) which has two requirements. Firstly, it must be proven that there has been a fundamental contractual violation on the seller's part regarding either his contractual requirements or his obligations laid out by the Convention.

Secondly, it must satisfy the requirement that the seller's fundamental breach was indeed a significant infringement in light of CISG Article 25. This results in the innocent party trying to establish that the breach was indeed a fundamental one and conferred a hardship or detriment upon them should they choose to conform with the requirements of the convention which needs a fundamental breach to be committed in order to ensure that the contract is indeed worthy of termination.

The effect of this as well as the convention's view regarding termination can be seen in The Cobalt Sulphate Case. Here, it was agreed upon by the contracting parties that the buyer will receive Cobalt Sulphate of British origin alongside a certificate of quality and origin. However, the Cobalt Sulphate which was supplied was instead of South African in origin and not British as well as the fact

11. Ibid.

12. Maartje Bijl, 'Fundamental Breach in Documentary Sales Contracts: The Doctrine of Strict Compliance with the Underlying Sales Contract'.

13. [1933] AC 470.

the certificate of quality and origin was not real. Based on these, the buyer tried to terminate the contract. Normally, under SOGA it would've been immaterial as to whether or not the certification or quality of the product was fake but rather that a condition had been breached. Regardless, the German court barred the purchaser from terminating the contract as they found that the buyer failed to establish the fundamental breach and was then bound to pay the full price as she had also failed to satisfy the requirements set out by Article 25 of CISG.

This was because it was held that it could not be established on the buyer's part that South African Cobalt Sulphate's sale in Germany or any other part of the world was impossible and that the incorrect certification of origin and quality was not a substantial fundamental breach. This has caused people to take a viewpoint that the convention places quite a few burdens on the innocent party as it only allows termination when a serious wrong had been committed by other party and that notice of termination must be sent to the other party beforehand.

SOGA

On the other hand, under English law, the innocent party has the right to dissolve the contract if the seller violates a condition, regardless of how serious the breach is. Contractual conditions are derived from three sources. To begin, some conditions are implied into contracts by the SOGA under sections 13, 14, and 15. In the event of a breach of these implied terms, the buyer has the right to terminate the contract.

Apart from those common words and statutory conditions like as Sections 13 and 14 of the SOGA, the standard technique for courts to discern conditions from warranties is to examine the parties' intent at the time of contracting. In the event of a breach of an intermediate-term, the buyer may terminate the contract if the breach considerably deprives the buyer of the entire benefit of the contract as represented by the contract's parties¹⁴.

For instance, in *Hong Kong Fir*¹⁵, a two-year charter party was terminated because of the vessel's 'unseaworthiness for all but eight and a half weeks throughout the first seven months of the charter'. The court determined that the expression "supply a seaworthy vessel" was an intermediate term rather than a condition. As a result, it was determined that the charterer lacked the authority to terminate the contract.

Contrary to the convention, the SOGA eliminates the burden of notifying the other party of termination. On the other hand, section 15A was added to the SOGA by the

14. *Ibid* 10

15. *Hong Kong Fir Shipping Co. Ltd v Kawasaki Kisen Kaisha Ltd* [1962] 2 QB 26, 62

16. *Universal Cargo Carriers Corporation v Citati* [1957] 2 QB 401

Sale and Supply of Goods Act 1994 has brought the evolution of the innominate term.

According to this newly inserted provision, unless parties agree otherwise in the contract, the breach of a condition in non-consumer contracts might be considered as a violation of warranty if the effect of the violation is very slight. By breaching any innominate term, the innocent party can only recover damages but will not be able to terminate the whole contract.

Anticipatory Breach

According to article 71 (1) of the convention, a party may stop the performance of his obligations if it becomes clear that the other party will fail to perform a substantial part of his responsibilities after the contract is concluded. Suspending performance becomes effective when the party notifies the other party. On the other hand, English law recognizes the notion of the anticipatory breach but does not treat situations in the same way as the convention does¹⁶. An anticipatory breach occurs when the time for performance has not yet arrived but the promisor has declared his intention by words or actions not to perform the obligation or a portion of his responsibilities.

The principal remedy for anticipatory breach is for the innocent person to be compensated for the damages he or she sustained as a result of the breach. However, if the breach deprives the innocent party of a material advantage of the contract, the party may repudiate the entire deal. Thus, the difference is that under the convention, the innocent party may suspend his obligation, which entitles him to void the contract but he will have to wait for the conclusion of the contract.

Whereas under English law, the innocent party will generally recover damages but will only be able to void the contract if he loses the contract's substantial benefit but he will be able to do that immediately whenever he discovers other parties intention, and there is also no requirement to provide notice to the defaulting party.

Frustration of Contract

There is a discrepancy between English law and the convention regarding the concept of contract frustration. A contract can be frustrated if circumstances change after it is concluded, and neither party is accountable for the changes, rendering the deal either impossible to perform or depriving it of its commercial

17. *Taylor v Caldwell* (1863) 3 B & S 826

18. *Hirji Mulji v Cheong Yue Steamship Co Ltd* [1926] AC 497

purpose¹⁷ .

Where the contract is frustrated, both parties are released from all possible duties and are barred from bringing any action against the other¹⁸ . However, the convention contains no concept of contract frustration. According to article 79 of the convention, a party is not accountable for a breach of any of his obligations if the breach happens as a result of a hindrance beyond his control. The provision does not say that the parties are freed from all possible obligations or that the entire contract is defective in such a case.

Therefore, if a circumstance beyond the seller's control renders it impossible for the seller to deliver the goods, the seller will be released from that obligation, but the buyer may still be required to pay for the product, as the buyer is not entitled to void the contract, which could be viewed a serious detriment to the buyer. The buyer, however, would be allowed to terminate the contract under English law. Thus, the requirements of article 79 apply to the obligation of a single party, whereas the law of frustrated contracts applies to the entire contract.

Remedies

There is a conflict between the two provisions addressing the remedies for a breach. The convention offers a remedy in a variety of ways. It gives a remedy in the form of paper as well as products. The convention provides that the parties may cure a breach of their commitment even after the delivery has been made. According to article 46(2) of the convention, if a seller delivers defective products, the seller may rectify the problem by delivering replacement or substitute goods. On the other hand, under the SOGA and English law, the sole legal remedy is document restoration; there is no provision for the rectification of a contractual defect after delivery.

The fundamental remedy for breach of contract under the convention is specific performance, which states that the buyer has the right to compel the seller's performance if the buyer has not chosen an equivalent inconsistent remedy. Similarly, the seller may require the breaching buyer to 'pay the price, take delivery, or perform his other responsibilities under the Convention, provided the seller has not chosen an inconsistent alternative remedy.

When the defaulting party fails to perform as required by the contract, the innocent party may declare the contract unenforceable and seek damages. Whereas in English law, damages are the fundamental remedy for violation of contract, and specific performance is considered an exceptional remedy. As Greenberg concluded, "the conventional English view is that equity has no place unless the common law remedy is insufficient, and the usual view is that monetary damages based on market value would provide an appropriate remedy

by permitting an aggrieved party to make a substitute purchase or sale¹⁹.”

Specific performance is available only if the damages are insufficient and appropriate. Thus, if one party fails to perform any of his obligations under the convention, the defaulting party will be granted additional time to perform those obligations properly, but under English law, the innocent party is entitled to void the contract and recover damages, and the court will only grant specific performance in the absence of adequate damages.

Additionally, if the seller notifies the buyer that the goods are ready for delivery and the buyer fails to accept the delivery within a reasonable time, the buyer will be liable for any loss incurred and a reasonable charge for the care and custody of the goods, triggering the seller’s right to repudiate the contract. In contrast, the convention confers no rights on the seller.

Additionally, SOGA stated that if the contract includes the transport of goods, the seller is responsible for arranging the contract with the carrier that is most suited in the circumstances. However, if the seller fails to do so and the products are lost or destroyed during shipment, the seller will be held liable for the loss.

Additionally, the SOGA empowers the seller to repudiate the contract if the items are ready for delivery and the buyer refuses or fails to accept delivery at the seller’s request. Unlike the SOGA, the convention did not confer any rights on the seller. Additionally, the SOGA grants an extra right to the unpaid seller; if the items have been delivered but payment has not been received, the seller has the right to hold and resell the goods.

Transfer of Risk

There are several meanings for the phrase “Risk” present in Contracts regarding the sale of goods. However, the generally agreed upon legal term for risk is ‘unintentional property damage’ and it must occur without being the consequence of the conduct or omission of the parties subject to the contract. There are primarily two forms of risk and they appear when the selling party carries and when the purchasing party suffers the risk.

This produces scenarios where the seller cannot reclaim the price at which they sold the goods when they are carrying the risk and this also has them return any amount paid to them by the buyer prior to the sale. Similarly, the buyer’s risk produces the circumstance where they are liable for the purchase price regardless of the destruction or absence of the goods after entering their custody but before the control is properly transferred.

19. H Greenberg, ‘Specific Performance under Section 2-716 of the Uniform Commercial Code: “A More Liberal Attitude” in the “Grand Style”’ (1982) 87 Commercial Law Journal 583, 584.

CISG

Article 68 applies in contracts including commodities sold in transit and also transmits the risk to the buyer when they gain custody of the products and such a scenario may also occur where the sales agreement excludes the carriage of goods. This happens despite Article 69 if the CISG discussing the risk of losses. The principle laid out by Article 69(1) is that when the products are at the buyer's disposition and possession and are to be delivered to the seller, the risk shifts to the buyer. This may cause issues during the acquisition of the merchandise if the products were to be for instance, delivered on a specified day and the buyer fails to acknowledge the goods, the risk will be transferred immediately upon him after his approval regarding the goods is received.

If however, there is no delay and they arrive before the declared delivery date between the parties passes, the risks will be shifted to buyer at the time of the purchase and not upon his time of approval. Further, in Article 69(2), when the seller is informed by the purchaser that the products are ready, the risk passes onto the buyer when the shipment gains imminence.

It is likely, that these criterion are mainly present in order to aid in the pertaining of products already in the hands of a third party with a notable example being 'Ex Works'. It is reasonable to assume that all reasonable steps expected of the seller has been taken to aid in the purchaser's acquisition if the commodities are made available. Thus, it also illustrates the buyer's authority to receive or remove the products from a third party's custody.

SOGA

Under SOGA S.20, the risk of loss is transmitted alongside the property. This mainly sets out that should the items be lost or destroyed prior to their transfer then the seller maybe found liable. Similarly, the risk is transferred to the buyer when the property is and this is applied regardless of the product's possessor at that time. This is further detailed in s 20-1, where it is show that the risk transfer is equated with property transfer under the English law.

Regardless, this may be modified by the contracting parties who may choose to separate the transfers of risk and property in regards to their transactional nature and thus provide a rationale which is different from the orthodox understanding that one party must bear the risk. Therefore, if it is agreed upon by the contracting entities that one party will carry the risk of loss and/or damage despite not having possession of the property, priority will be given to the terms presented in the agreement²⁰. In the scenario where an agreement is not present, S. 20(1) will be

20. Atiyah P S ,John N Adamss,Hector Macqueen, Atiyah's Sale of goods, (11th edition ,pearson education limited, 2005).

given precedence and the property will pass alongside the risk.

Which legal framework provides better facilities for the sale of goods?

As stated previously, both SOGA and CISG are regularly utilised in the international commodity trade. Both seller and buyer are legally creating their selling contract. Both seller and buyers are satisfactorily forming their sale contract under those legal norms. After examining the foregoing differences, it can be concluded that while SOGA and CISG have similar provisions, SOGA will outperform CISG in terms of both buyer and seller benefits. Firstly, in terms of products conformance, the parties will have to prove a fundamental breach by the breaching party. It must also be proven that the violation caused detriment and was reasonably foreseeable.

However, the convention does not define fundamental breach and detriment, confusing. To prove good non-conformity under CISG, the breach must be significant. Unlike CISG, under SOGA parties do not need to establish a fundamental breach. Regardless matter the severity of the breach, it must be proven that it violated a contract condition. Secondly, SOGA has a better contract termination stance. To terminate a contract for a party's breach, it must be proven that the breaching party's act produced a fundamental breach. Thus, the parties must prove a fundamental breach, detriment, and the foreseeability test as in article 25.

The innocent party must also offer termination notice. Under SOGA termination depends on the breached term. A condition or intermediate term breached renders the contract void, while an innominate term breached does not, but the innocent party can sue for damages and no notification is required. Third, anticipatory breach under CISG allows the innocent party to suspend his responsibility after the contract is concluded, but only after giving notice.

Under SOGA, if the innocent party anticipates that the other party will not perform a substantial part of his obligation which will deprive the innocent party of the substantial benefit of the contract, he may immediately repudiate the agreement. The innocent party does not have to wait for the contract to be concluded and does not have to notify the other party.

Fourthly, under SOGA, if circumstances change and make it impossible to perform the contract's obligations, the parties are released from their commitments. However, CISG has no such provisions. From the debates, it can be concluded that if parties must choose between SOGA and CISG, SOGA should be chosen because it is less controversial and benefits both seller and buyer.

Conclusion

Finally, it can be concluded that the CISG is indeed worthy of the acclaim it has received and also the advantages its wide scope provides which has compelled many nations to adopt it into their national law. Though, there are significant differences between the CISG and SOGA. Namely, the issue the CISG gives rise to during the termination of a contract where the parties have to follow complex procedures as well as establish that the breach was indeed serious and that there has been a fundamental breach by the breaching party. Though, what constitutes as a fundamental breach is not properly defined in the CISG and thus it can give rise to uncertainty due to its broad application.

On the other hand, a breach under the jurisdiction of SOGA would cause the contract to be terminated regardless of the overarching nature of the breach. Furthermore, in the field of anticipatory breach, the SOGA allows for immediate suspension of obligations whereas the CISG has no such provisions for discharge. In terms of remedy however, the convention provides for specific performance which can greatly benefit the buyer whereas the SOGA has no such arrangements for rectification or specific delivery and instead provides damages for such issues. With all these factors taken into account we can see that the SOGA is the better choice for both international entities and UK based businesses to engage in a sales contract to best regulate the flow of their dealings.

Bibliography

Cases

Arcos v Ronaasen[1933] AC 470

Bunge v Tradax Export [1981] 1 WLR 711, HL

Hong Kong Fir Shipping Co. Ltd v Kawasaki Kisen Kaisha Ltd [1962] 2 QB 26, 62

Hirji Mulji v Cheong Yue Steamship Co Ltd [1926] AC 497

Taylor v Caldwell(1863) 3 B & S 826

Universal Cargo Carriers Corporation v Citati [1957] 2 QB 401

Books

The book of, Atiyah P S ,John N Adamss,Hector Macqueen, Atiyah's Sale of goods, (11th edition ,pearson education limited, 2005)

The book of, Benjamin's Sale of Goods (11th Edition edn Sweet & Maxwell, London 2010)

Robert Duxbury, Nutshells Contract Law, 11th Edition, Sweet and Maxwell, 2015.

Articles

Anwar Aboukdir, The timing of the passing of risk under the English Sale of Goods Act 1979, the interplay between the principle of party autonomy and the default rule should the risk linked to the passing of property or to the situation of the goods?

B. Ahmed, Avoidance of Contract as a Remedy under CISG and SOGA: Comparative Analysis.

Goodfriend, D. E. (1983). After the Damage is Done: Risk of Loss Under the United Nations Convention on Contracts for the International Sale of Goods. 22 Columbia Journal of Transnational Law, pp. 575-582.

H Greenberg, 'Specific Performance under Section 2-716 of the Uniform Commercial Code: "A More Liberal Attitude" in the "Grand Style"' (1982) 87 Commercial Law Journal 583, 584.

M. Brown, Good faith is there a new implied duty in English contract law?

Maartje Bijl, 'Fundamental Breach in Documentary Sales Contracts: The Doctrine of Strict Compliance with the Underlying Sales Contract'.

Min Yan, Remedies under the Convention on Contracts for the International Sale of Goods and the United Kingdom's Sale of Goods Act: A Comparative Examination

Roth, P. M. (1979). The Passing of Risk. The American Journal of Comparative Law, Volume 27

S. Kanojia, Does English Law Provide the Best Framework for the Sale of Comoodities? A Comparison Between English Law, Incoterm and C

Land Conflict and Pattern of Crime in Bangladesh: A Study on Thakurgaon District

Md. Rezaul Haq, ppm**¹

Mohammad Shahjahan, ppm (Bar), Ph.D.**²

Abstract: Land dispute and crime is a serious matter in Bangladesh especially in the northern part of the country. Social changes in different periods, has been the major reason for the land conflict and problems. Due to these social changes, it was not possible to make land records and registrations of lands. Beside this, local land registration offices are the most corrupted and officials and sub registrars in land office, brick farm owners, local politicians and influential people commit irregularities in registering and managing lands. The present study tries to identify the nature of land related cases in Bangladesh and how land related crime occurred as well as affects people. As a baseline study, it was conducted at the northern part of the country (Thakurgaon district). The study analyzed the cases of 2013 and 2014, beside with a structured questionnaire survey. Violent attacks on property owners are perpetrated by the criminal, local mafia and other groups due to land acquisition. To mitigate land related disputes, ADR, Shalish, Village court and Court Jurisdictions are used as a very common method. Study showed that both kith and kin and neighbour (59.1%), only neighbour (22.7 %) and only kith and kin (18.2 %) are involved in land conflict. In political level, the land conflict is occurred in two sub-levels. These are-Inter-party (50.0%) and Intra-party (22.7%). The last level is group. In group level, two actors are involved. These are family (77.3%) and Village (31.8%). The study concluded that the land matter is completely civil matter but the land is the source of lot of crimes. Police and other law enforcing agencies are not able to take legal action.

Keywords: land dispute, crime, land property, conflict resolution

Introduction

Land is naturally universal property in the world. No person can deny the necessity of land in human life. In fact, we are originated from earth, we depend and move on it and we physically vanish into it. So, our interest in land is universal and it is one of the human rights. In fact, the protection of right to land implies the protection of the basic necessities, e.g., right to food, shelter and social security (Article 15, The Constitution of the People's Republic of

1. Deputy Inspector General of Bangladesh Police and Vice Rector, Police Staff College Bangladesh.

2. Superintendent of Police and Director (R&P), Police Staff College Bangladesh

Bangladesh) the emancipation of the peasants and workers (Article 14), the rural development and agricultural revolution (Article 16). However, where there is an interest, there is a dispute. Consequently, land dispute results from land interest. As land interest is universal, land dispute is also universal. But proper land laws, well-structured land administration, dynamic land management in an environment of good governance, and above all amicable mechanism of dispute settlement may reduce land dispute into a tolerable level. Thus, a significant socioeconomic development may bring about in the life of the common people (Islam and Islam, 2015).

protection of right to land implies the protection of the basic necessities, e.g., right to food, shelter and social security (Article 15, The Constitution of the People's Republic of Bangladesh) the emancipation of the peasants and workers (Article 14), the rural development and agricultural revolution (Article 16). However, where there is an interest, there is a dispute. Consequently, land dispute results from land interest. As land interest is universal, land dispute is also universal. But proper land laws, well-structured land administration, dynamic land management in an environment of good governance, and above all amicable mechanism of dispute settlement may reduce land dispute into a tolerable level. Thus, a significant socioeconomic development may bring about in the life of the common people (Islam and Islam, 2015).

The concept of ownership is one of the fundamental juristic concepts common to all systems of law (Mahajan, 1998: p. 324). So long the people were wandering from place to place and settled place of residence, they had no sense of ownership. The idea began to grow when they started planting trees, cultivating lands and building their homes. The transition from pastoral to an agricultural economy helped the development of the idea of ownership. People began to think the terms of "mine and thine" (Mahajan, 1998: p. 332). Historically and logically speaking, the incident of land disputes might have taken place in the human society from the sense of ownership of land, i.e., the clash of interest in land. However, land dispute may be arise out of land, e.g., dispute from land itself, land instrument and any interest arising out of land. In a study, it is shown that about 80% cases including civil and criminal have arisen from land disputes (Hoque, 2000: p. 255). The diversity of ways by which land records is updated and the problems associated with each, give rise to numerous disputes in which the rich and powerful inevitably enjoy the upper hand. At present the responsible ministries and agencies involved for land management and administration work independently with little coordination among them. The whole process is manual, laborious and time intensive.

In 1950, when Bangladesh was still a British colony, the ceiling for individual land ownership was fixed at 33.33 acres - a measure no government has enforced.

The country's wealthy ignored a demand to hand over excess property to the state. In 1984, a Land Reform Act further reduced the ceiling for individual ownership of land to 20 acres. Again, the rule was ignored, as was a subsequent effort to carry out agrarian reform and divide the country's land more evenly. Instead, influential elites expanded their holdings by grabbing 1.3 million hectares of government-owned land (Thomson Reuters Foundation, July 8, 2010)

At present, there is no uniform system of settling land disputes in Bangladesh. In fact, the Revenue Officer, the Civil Court, the Magistrate Court, the Village Court or Municipal Board may settle land disputes. In the context of its limited number of judges, inadequate judge-population ratio, insufficient budget allocation for the judiciary and lack of infrastructure in the legal system, the reliance on ADR becomes just a demand of the time. Given that many developed and developing countries have gained tremendous success in reducing pending cases by adopting ADR, Bangladesh should find and try ways and means to develop ADR modes in the same fashion. In case of any disputes arising during land survey and recording, it can be resolved with the help of NGO, CSO and local government bodies such as Union Parishad (UP) representatives. So, for uniform and peaceful land dispute settlement, land laws may be moulded into the shape up to the satisfaction and confidence of the people. Although various forms of land disputes are available such as criminal land disputes and civil land disputes etc.

A very recent study by BRAC (2018) identified that, 31 million people face legal dilemmas every year. The major types of legal issues they face include, among others, issues with neighbors (40%), land disputes (29%), criminal offences (21%), family disputes (12%), money related issues (12%), social welfare (11%), consumer problems (9%), and accidents and personal injury (8%). In terms of the severity of the issues, land related legal disputes come out on top of the rest. The severity of the problems as reported by percentage: land disputes (25%), neighbors (22%), crime (12%), family disputes (7%), money (7%), social welfare (5%), housing (4%), and accidents and personal injury (4%).

One in every seven households in Bangladesh is involved in land disputes, shows a first ever study, which highlights the toll they take on families financially and in terms of safety and the enormity of the number of litigations the judiciary handles. About two million land related cases are pending with the judiciary, which make up more than 70 percent of all litigations in the country. The report says 7.5 percent of households with past or present land conflict have experienced a physical assault (The Daily Star, August 12, 2014).

Methods

The study is based on both the secondary and primary sources. Secondary data has been collected from books, journal articles, reports, and from various official and unofficial sources. For collecting Primary data, the respondents has been categorized on general people, law enforcement agency personnel and land officials. Through a survey method, the data has been collected by a structured questionnaire. By using a purposive sampling method, there were 28 respondents has interviewed. The study has been conducted in two different thana (Thakurgaon sadar and Balidangi) of Thakurgaon district. In completing the study, mainly quantitative approach has been adopted to make an analytical reasoning land dispute and crime in Bangladesh. Beside this, the study also identified the socio-demographic characteristics of respondents, status of land related cases in the year of 2013 to 2014, types of land conflicts in Bangladesh, level of land conflict in Bangladesh, conflict resolution method and socio-economic consequences of land conflict has been analyzed.

Analysis and Discussion

Socio-demographic Characteristics of Respondents

There are 28 respondents including three categories such as: general respondent, law enforcing agency and land officials. The following table gives categories of the respondent. It also shows that overwhelming majority of the respondents are general respondents (plaintiff and defendant) 78.57%. There are 22 general respondents including plaintiff, defendant and both plaintiff and defendant. The table shows that most of general respondents are plaintiff with 54.5 percent. Besides, table 3-5 show that overwhelming majority of general respondents are males (86.4%), farmer (31.8%) and Muslim (72.7%). It also illustrates that the educational status of the maximum respondents is up to S.S.C and their percentage is almost 37. On the other hand, the lowest rate is 4.5 which belong to primary level.

Table 1: Socio-Demographic Characteristics of Respondents

Characteristics	Category	Number	Percent
Respondents Category	General Respondents	22	78.58
	Law Enforcement Agency	4	14.28
	Land Officials	2	7.14
Total		28	100.00

Category of General Respondents	Plaintiff	12	54.5
	Defendant	2	9.1
	Both Plaintiff and Defendant	8	36.4
Total		22	100.00
Gender of General respondents	Male	19	86.4
	Female	3	13.6
Total		22	100.00
Occupational status of General Respondents	Housewife	1	4.5
	Business	2	9.1
	Farmer	7	31.8
	Student	1	4.5
	Private service	3	13.7
	Teacher	1	4.5
	Day labor	4	18.2
	Govt. Service	3	13.7
Total		22	100.00
Religion of General Respondents	Islam	16	72.7
	Hindu	5	22.7
	Christian	1	4.6
Total		22	100.00
Educational Qualification of General Respondents	Illiterate	3	13.6
	Primary	1	4.5
	SSC	8	36.4
	HSC	4	18.2
	Undergraduate	4	18.2
	Graduate	2	9.1
Total		22	100.00

Status of Land Related Cases in Thakurgaon

The total number of land related filing cases in Thakurgaon Sadar Thana is 112 in 2013 and 122 in 2014. The average number of filing cases annually is 117. On the other hand, in Balidangi Thana, we see that the total number of land related filing cases is 8 in 2013 and 90 in 2014. Its average number of filing cases annually is 85.5. The table also shows that the number of filing cases related to

land conflict is increasing year by year. It is found from the analysis of the filing cases that due to land conflict 17 counter cases are filed in Thakurgaon Sadar and 6 counter cases are filed in Baliadangi per year. It is also noticed that almost 14 persons are accused per case in Thakurgaon Sadar and almost 11 persons are accused per case in Baliadangi. A remarkable finding was found during the field survey that most often child and innocent people (people who are not involved in land dispute) are accused. In Thakurgaon Sadar, 47 Out of 234 cases and in Baliadangi, 31 out of 171 cases were filled in chief judicial magistrate court. Apart from, in Nari o Shishu Nirjaton Adalat, 5 cases in Thakurgaon Sadar and 2 cases in Baliadangi were filled. It is also noted that, there is only one case of kidnapping due to land conflict and there is no child abuse case in Thakurgaon Sadar and Baliadangi Thana. This table indicates that 14 murder cases and 8 murder cases were filled in Thakurgaon Sadar Baliadangi respectively. The filling cases mentioned that the average damage of per case in amount is tk. 55000

Table 2: Comparison of Cases under the two Police Stations

Name of Thana	Thakurgaon Sadar		Baliadangi	
Year	2013	2014	2013	2014
Number of Land Related Case	112	122	81	90
Total Case	234		171	
Average Case Per Year	117		85.5	
Average Counter Case	17		6	
Average Accused Per Case	13.6		10.2	
CJM Court Trial	47		31	
Average Amount of Damages	55000		43700	
Nari o Shishu Nirjatan Daman Tribunal	5		2	
Using Arms	53%		57%	
Sexual Harassment	75%		63%	
Murder	14		8	
Kidnapping	1		0	

and tk. 43000 respectively in Thakurgaon Sadar and Baliadangi Thana. The rate of using different arms and the rate of sexual harassment is 53 percent and 75 percent respectively in Thakurgaon Sadar Thana. On the other hand, the rate of using different arms and the rate of sexual harassment is 57 percent and 63 percent respectively in Baliadangi Thana.

Types of Land Conflict Occurred in Thakurgaon

There are different types of conflicts occurring on all types of property. Generally, boundary conflict refers to a conflict over the demarcation of land. There are two sub-types of boundary conflict. Ownership conflict occurs within the family and

Table 3: Types of Land Conflict Surveyed

Category	Types	Yes	No	Don't Know
Boundary Conflicts	Between Individuals	100.0%	-	-
	Among Private company, State or Collective owners	50.0%	18.2%	31.8%
Ownership conflicts linked to inheritance	Inheritance conflicts within family	100.0%	-	-
	Inheritance conflicts within clan or keen	77.3%	4.5%	18.2%
Disputes over Land Value	Between citizen and state	50.0%	13.6%	36.4%
	Between private persons	77.3%	9.1%	13.6%
Land grabbing		50.0%	13.6%	36.4%
Selling private property of another person		77.3%	4.5%	18.2%
Violent attacks on property owners		81.8%	9.1%	9.1%
Illegal evictions		50.0%	31.8%	18.2%

within the keen groups related to inheritance problem. The last type of conflicts occurring on all types of property is disputes over the value of land. Value of land is a vital issue of conflict between the citizen and the state in case of compensation or tax. Land conflict is also occurred between private people to define indemnity for sibling in case of inheritance. Nowadays land grabbing is a burning issue in Bangladesh. Sometimes high ranking public officials' grab collective property

Table 4: Parties to the Conflict

Levels	Sub-levels	Yes	No	Don't know
Inter-personal	Kith and kin	18.2%	81.8%	-
	Neighbor	22.7%	77.3%	-
	Both	59.1%	40.9%	-
Political	Inter-party	50.0%	18.2%	31.8%
	Intra-party	54.5%	22.7%	22.7%
Group	Village	31.8%	40.9%	27.3%

in their own names or in their family members and friends. Selling the private property of another person is present in the contemporary society of Bangladesh. Violent attacks on property owners are perpetrated by the criminal, local mafia and other groups due to land acquisition. Almost 50% respondents gave their view that illegal evictions by state officials create land conflict.

Level of Land Conflict Occurred

Land conflict occurs in three levels, like: inter-personal level, political level and group level. In inter-personal level, land conflict is most occurred .The table shows that both kith and kin and neighbour (59.1%), only neighbour (22.7 %) and only kith and keen (18.2 %) are involved in land conflict. In political level, the land conflict is occurred in two sub-levels. These are-Inter-party (50.0%) and Intra-party (22.7%). The last level is group. In group level, two actors are involved. These are family (77.3%) and Village (31.8%).

Table 5: Methods Applied in Conflict Resolution

Methods	Status	Frequency	Percentage
ADR	Yes	21	95.5
	No	1	4.5
Shalish	Yes	7	31.8
	No	15	68.2
Village court	Yes	10	45.5
	No	12	54.5
Court-jurisdiction	Yes	14	63.6
	No	8	36.4

Conflict Resolution Method

Almost 96% (21 people) respondent said that ADR (Alternative Dispute Resolution) methods are applicable for land conflict resolution. Moreover, respondents addressed three types of ADR methods for land conflict resolution. These are- Mutual negotiation (47.65%), mediation (42.9%) and arbitration (9.5%) respectively. The table illustrates that 68.2 % respondent think that traditional shalish is not suitable method for land conflict resolution because they do not get justice in Salish. Shalish is mainly conducted by local elites. At present, it is conducting by the ruling political leaders and UP chairman. Sometimes it so happens that money is taken from both parties. It is also noted that most of the cases the justice that is given almost biased. It was also found from the field study that local elites and respected persons cannot play any role in Shalish because of Political influence. Nearly 55% respondent said that that

political influence is present is Village court. As a result, the conflict cannot be resolved in this process. During the survey, it was found that 63.6% people think that court-jurisdiction /judicial process is a process of land conflict resolution. On the other hand, remain 36.4% respondent do not think it is a suitable process of resolution due to long term process.

Socio-economic Consequences of Land Litigation

Conflict itself is a complex issue that creates multidimensional impact on both the parties, even after filing case to the court. Regarding to the title of land, they are in high tension of losing it in civil and revenue litigations while the tension in criminal cases is severe because of conviction, either imprisonment or transportation of life and death sentence. 86% respondents (both plaintiff and defendant) agreed that psychological tension increases due to land conflict. It also increases among family members (86.4%), relatives (72.2%). The witnesses also suffer from psychological tension as disclosed by 68.2% respondents. Sickness, mostly caused by tension and mental pressure, is highly pronounced among both plaintiff and defendants (72.7%), followed by the family

Table 6: Reported Negative Effects of Land Conflict

Types of person	Socio- economic Consequences					
	Increasing anxiety	Sickness incidences increased	Decreasing education opportunity	Income declined	Food consumption deteriorate	Medical/health expenditure decreased
Plaintiff/ defendants	86.4%	72.7%	22.7%	72.7%	77.3%	72.7%
Family members	86.4%	69.7%	75.0%	70.0%	68.2%	77.3%
Relatives	72.7%	36.4%	45.5%	59.1%	59.1%	36.4%
Witnesses	68.2%	40.9%	27.3%	45.5%	45.5%	36.4%

members (69.7 %), the relatives and witness are also affected in the same way by 36.4% and 40.9% respectively. Impact of litigation on squeezing educational opportunities is very severe among family members. Three-fourths (75%) family members, probably the sons and the daughters are victimized by the reduction of educational expenditure. It is true for the plaintiff and defendants; they have to leave the education due to such litigations. Apart from, about 45.5% relatives and 27% witness have to face such trouble. Income of the litigated and involved households reduces remarkably. 72% respondents told that their income had declined due to land conflict and it is supported by the statements of 70% family members. It is also mentioned by the relatives and witness, 59.1% and 45.5%

respectively. This reduction in income directs all other incidents of daily life into trouble. Because of involvement in land litigation, around 77% respondents and family members reported less food consumption, which is also remarkable in relatives and witness as replied by 59.1% and 45.5% respectively. Reduction in health care expenses was reported by 72.7% respondents and it was also reported by relatives and witness, 36.4% in each group.

Recommendations and Conclusion

Land dispute and litigation is a major curse in Bangladesh causing colossal national wastage. Therefore, the issue of land litigation should be dealt with seriously. This study provides following recommendations for mitigation land disputes in Bangladesh:

Implementation or enforcement of present laws

The first suggestion forwarded by the respondents was the urge for implementation or enforcement of present laws relating to land management. Peoples from all walks of life including advocates, local political leaders, intellectuals, NGO representatives and peasant organization should pressure the government for speedy implementation of laws.

Shorter court procedure

The next proposal is the shorter court procedure. 97 percent respondent felt that the lengthy process of the court leads the people in long ruin and it should be diminutive and trial would be summary type by nature.

Provision of high punishment for forged document

The subject ‘forged document’ is prioritized in the recommendations by 89 percent affected people suggested to make provision of high punishment, for forged document and fraud by it, to stop the sin that acts as an important causal factor in land litigation. The people noticed that inefficiency and professional frail of the advocates and 90 percent respondents have forwarded suggestions regarding the ways of improving the dignity and efficiency of the advocates. In fact they are the legal friends of the clients and the part of the court as to assist in judicial decision or verdict.

Establish social control to resolve land related problems instead of going suit at the court

Social structure that under a rapid changing curdles creates decline in civil control over the society and that creates so many troubles in the society needs

to be resorted. The recommendations in line with this fact, whether we believe or not, were made 96 percent and it is the only way to challenge all this ruin not only in land sector but also for all. In fact moral degradation, corruption and hunger for illegal wealth and sensual enjoyment lie with the deteriorating social state as the young generation witnesses that their predecessors are doing.

Strengthen of the Local Government

The next suggestion is related to the strengthening of the Local Government Bodies i.e. decentralization of power and function to the rural social and institutional form of administration. The next following point, the strengthening of village court, where Union Parishad Chairman is the Judge i.e. the social body to solve the minor conflict both criminal and civil, also supports it.

Promoting good land governance

Good governance is a must in the judicial system and land administration. Therefore, corruption should be eliminated from courts and land offices. Steps should be taken to uproot the forgery and bribery from the judicial system and land administration. Especially ‘Tahsil office’ and other land offices are the centres of manipulation, corruption and bribery. If the government takes steps against the corrupt land officials, land disputes as well as distress of people-in litigation can be reduced to a large extent.

Transparent survey and settlement system

Modern land record and correction system (mutation) along with transparent survey and settlement system are also related with the above two aspects. Regarding registration, one-third of the respondents raised the issue to be changed because of the irregularities in this sector. A lot of people during investigation raised these questions to address immediately to reduce the sufferings of the people of the country

Speedy settlement/disposal procedures

Government should devise speedy settlement/disposal procedures for land litigation, but by not compromising with appropriate lawful judgment. Reduction in sufferings of land litigation and quick disposal of litigation will help in reducing physical and mental sufferings and improving overall health of the families involved in litigation. This, in turn, will release productive time for the people involved in litigation to devote invaluable time and energy more for their family’s welfare, and social and economic development.

References

- Islam, S., Moula, G., & Islam, M. (2015). Land Rights, Land Disputes and Land Administration in Bangladesh: A Critical Study. *Beijing Law Review*, 6, 193-198.
- Hoque, K. E. (2000). *Bhumi Ain o Bhumi Babasthar Cromobikas (Land law and Development of Land System)*.
- Islam, M. T. (2013). *Lectures on Land Law*. Northern University, Bangladesh.
- Mahajan, V.D. (1998). *Jurisprudence & Legal Theory*. Eastern Book Company, India (5th Ed.).
- BRAC (May, 9, 2018). *31 million face legal issues every year, land disputes most severe*. Accessed on December 14, 2018 by <http://www.brac.net/latest-news/item/1152-31-million-face-legal-issues-every-year-land-disputes-most-severe>
- (2014, August 12). One in 7 households facing land disputes. *The Daily Star*. Accessed on December 14, 2018 by <https://www.thedailystar.net/one-in-7-householdsfacing-land-disputes-36783>
- Thomson Reuters Foundation (2010, July 8). *Land disputes choke up Bangladesh's courts - is help at hand?* Accessed on December 14, 2018 by <http://news.trust.org/item/?map=land-disputes-choke-up-bangladeshs-courts-is-help-at-hand/>



Police Staff College (PSC) Bangladesh headed forward its formal journey in 2000 with a vision "To Maximize Human Welfare through Quality Policing." In 1998, it was initiated by police policy group and within a few years, in 2002, it has been governed by a Board of Governors chaired by the Honorable Home Minister. The Rector is the chief executive of the institution.

Police Staff College conducts the courses for the participants, in particular police officers, to raise awareness about new ideas, thinking, perception, insight and vision to respond to changing needs of the society. The institute endeavors to provide wisdom to the participants to improve managerial capability, operational performance, commanding skill and ability to identify root cause(s) of problems with a package prescription for solution in the context of national and international scenario.

PSC works for the professional improvement of the senior police officers and executives from other security and law enforcing agencies under the umbrella of Ministry of Home Affairs. It provides quality training to the trainees with the help of a group of resource people in and/or out of police, including university academicians, scholars, lawyers, bureaucrats, justice and officers from Armed Forces.

Police Staff College always emphasizes conducting quality research on contemporary issues in policing and national development. PSC has recently launched its academic endeavor with the Masters of Applied Criminology and Police Management Programme offered to the police officers and non-police personnel who would like to evolve professionalism in crime and policing issues. PSC will work with the aim to establishing the college not only as 'Endeavour for Excellence' but also as a regional 'think tank' for Bangladesh Police as well as SAARC region.