

Judicial Interpretation of Section 167 of the CrPC, Rights of Detainee and Police Procedure in Bangladesh

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ABSTRACT

This research critically examines the legal framework and judicial application of Section 167 of the Code of Criminal Procedure, 1898 in Bangladesh focusing on the delicate balance between effective criminal investigation and the constitutional guarantees of personal liberty and due process. Although Section 167 was designed to ensure judicial oversight in cases where investigations cannot be completed within twenty-four hours, its frequent misuse has raised concerns regarding arbitrary detention, custodial torture and prolonged pre-trial incarceration. Using a doctrinal and critical analytical methodology, the study evaluates statutory provisions, constitutional safeguards under Articles 31, 32, 33, and 35 and key judicial pronouncements shaping the modern interpretation of pre-trial detention. The findings reveal systemic inconsistencies in police procedure, gaps in judicial scrutiny and structural barriers that undermine detainee rights. The research argues for a rightscentric reform of Section 167, proposing stronger judicial monitoring, stricter standards for remand and enhanced safeguards against custodial abuse. Overall, the study seeks to contribute to ongoing debates on criminal justice reform in Bangladesh by emphasizing the need for a more transparent, accountable and constitutionally compliant remand system.

Keyword: The Code of Criminal Procedure. Bangladesh Legal Aid and Services Trust, Bangladesh Law Times,

INTRODUCTION

Bangladesh's criminal justice system is based on a constitutional directive that aims to correctly strike a stability between the preservation of distinct liberty and the status's investigative power. If an investigation cannot be complete within twenty-four hours of the arrest, the police may application prison interrogation under Section 167 of the Code of Criminal Procedure, 1898 (CrPC).

Notwithstanding the act's declared purpose of smoothing evidence collection under judicial regulation, the historical application of Section 167, which was driven by colonial administrative significances, has frequently exposed constitutional guarantees, particularly those found in Articles 31 to 35 of the Bangladesh Constitution.

Objectives of the Study

The primary objective of this study is to examine the judicial interpretation of section 167 of the CrPC, Rights of Detainee and Police Procedure in Bangladesh and these are the specific objectives:

1. To inspect the constitutional and statutory protections available to detainees during pre-trial detention in Bangladesh.
2. To examine judicial interpretations of Section 167 CrPC and their impact on detainee rights.
3. To evaluate police compliance with procedural safeguards such as mandatory production case diaries and medical examinations.
4. To identify gaps between the statutory procedure and the practical realities of remand practices.

RESEARCH METHODOLOGY

This paper is prepared by conducting doctrinal and critical analytical methodology to examine the constitutional statutory and procedural dimensions of detainee rights under section 167 of the CrPC. Some of the methods used in this research study are qualitative and some quantitative data processing techniques. This research consists of both primary and secondary data the field survey has been empirical research using a quantitative methodology. Other data came from official publications, law books, research studies, court decisions on the issue together, articles on the subject, keynote addresses given at a conference, newspaper articles, the internet, personal observation and assessment.

Research Questions

This study addresses the following core questions:

1. How effectively do constitutional and statutory safeguards protect detainee rights under Section 167 CrPC?
2. How have judicial directives influenced police procedure and restrained remand abuses?

LITERATURE REVIEW

A literature review is a critical analysis of previously published academic works-books, journals, and papers that are pertinent to a certain subject. Here are some brief notes on some of these works:

Ali Akkas: Ali Akkas, Sarkar, 'Law of Criminal procedure' book explains the Provisions of Section 167 CrPC in Bangladesh.

Ratanlal & Dhirajlal: Ratanlal, Dhirajlal, 'The Code of Criminal Procedure' book explain the core provisions of code of criminal procedure and also deals with the the provision of section 167 of CrPC in Bangladesh.

Zahirul: Zahirul Haque, 'Code of Criminal Procedure' book describe the provision of section 167 of CrPC in Bangladesh and relevant case laws.

Judicial Literature: The landmark judgment in *BLAST v Bangladesh* delivered strict scrutiny of remand applications, access to counsel and safeguards against torture. Subsequent cases have reinforced magistrates duties to question detainees, examine medical conditions and record reasons for granting police custody.

In this chapters, researcher will explore Judicial Interpretation of Section 167 of the CrPC, Rights of Detainee and Police Procedure in Bangladesh:

Chapter One: Introductory Chapter.

Chapter two: Conceptual and Legal Framework of Section 167 CrPC.

Chapter three: Judicial Interpretation of Section 167 CrPC in Bangladesh.

Chapter four: Rights of the Detainee and Police Procedure.

Chapter five: Concluding chapter.

Scope of the Study

The research focuses entirely on Section 167 CrPC and its functioning inside Bangladesh. It takes into account pertinent judicial rulings, constitutional clauses, and legal protections. Human rights reports and secondary material are utilized to highlight practical issues.

Limitation of the Study

No main field survey or interviews owing to time and budget restrictions. Limited comparison study, as the major emphasis is on Bangladesh. Unreported abuses of prisoner rights may not be adequately captured by relying solely on recorded examples that are already accessible.

Conclusion

The study's structure, purpose and methodological supporting have all been debated in this introduction chapter. It presents the academic basis necessary for the consequent chapters, which will expansively investigate the judicial and statutory workings of Section 167 CrPC. The chapter highlights the necessity of making sure that investigation procedures observe to the ideas of authority, proportionality and responsibility by situating the research within constitutional protections and human rights responsibilities. The succeeding chapters expand upon this base to present a detailed scientific study of detainee rights, police practice, and the larger effects for the rule of law.

Conceptual and Legal Framework of Section 167 CrPC 2.1 Introduction

Section 167 compacts with personal liberty. It shows the relationship between police investigation and the constitutional rights of the arrested person. It ensures the protection of the constitutional rights granted under Articles 30, 32, 33 and 35.¹ In this Chapter deals with the Historical Development of Section 167 in the Indian Subcontinent, Provisions of Section 167, Police Custody and Judicial Custody and Constitutional Safeguards.

Historical Development of Section 167 in the Indian Subcontinent

The CrPC of 1898, which was enacted by the colonial administration to regulate the criminal justice system in British India, is where Section 167 had its start. This early regulation mandated magistrate supervision after a person was detained for more than twenty-four hours in an effort to address concerns about arbitrary arrests. Section 167 of the CrPC of 1898, which codified the procedural law, affirmed this need.

Following the partition in 1947, India and Pakistan both maintained the 1898 Code. After gaining independence in 1971, Bangladesh adopted the CrPC of 1898 nearly in full, with Section 167 remaining mostly the same. The core principle of providing judicial oversight for detentions extending beyond the initial twenty-four hours aligned well with fundamental human rights ideals.

However, the practical application of Section 167 in Bangladesh has frequently been criticized. Scholars argue that the provision, intended to safeguard liberty, has often facilitated police excesses through prolonged remand, custodial violence, and forced confessions.² Despite amendments and judicial guidelines, Section 167 remains a contested provision in the criminal justice system.

Provisions of Section 167 CrPC in Bangladesh

The officer in charge of the police station or the investigating police officer, if they are not below the rank of sub-inspector, will immediately forward a copy of the case's diary entries to the closest judicial magistrate and forward the accused to that magistrate when someone is arrested without a warrant and placed in custody and it seems that the investigation cannot be finished in twenty-four hours and there are reasons to believe the accusation is well-founded. But when bringing someone who was arrested without a warrant before the magistrate, the police officer has to explain why the investigation could not be finished in twenty-four hours and what evidence there is that the information against the person is accurate.³ The purpose of making an accused person appear before a magistrate is to provide him or her the opportunity to determine if a police or judicial remand is required. It also gives the accused person the opportunity to make any representations they may want to make regarding the case.⁴ The provision for sending a copy of the entries in the diary along with the accused

¹ The Constitution Of the people's Republic of Bangladesh 1972.

² Muhammad Ekramul Haque, 'Remand and the Right to Liberty: A Critical Analysis of Section 167 of the Code of Criminal Procedure' (2012) 23 Dhaka University Law Journal 45.

³ *BLAST v Bangladesh* (2003) 55 DLR 363, 369.

⁴ *Bangladesh v BLAST* (2017) 69 DLR (AD) 63, 143.

to the Magistrate indicates that the purpose of producing the accused before the Magistrate is to ensure that the arrest and the detention of the accused person is, at any rate, prima facie justified.⁵⁶ In *Saifuzzaman v State* (2004) it was held that copies of all the documents including the memorandum of arrest, a copy of the information or complaint relating to the commission of the offence and a copy of the entries in the diary should be sent to the Magistrate at the time of production of the accused under s 167 CrPC.⁶

Section 167 comes into play only when the investigation cannot be completed within that time and further detention is deemed necessary. The magistrate may then authorize custody either police custody (for further interrogation) or judicial custody (in jail). The provision specifically requires the investigating officer to transmit a case diary or police diary stating the reasons why further detention is required.⁷ The magistrate, after examining the materials, may allow detention for a term not exceeding 15 days in total which includes both police and judicial custody.⁸ The Magistrate to whom the accused person is forwarded may, whether or not he or she has jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a period not exceeding fifteen days in the whole. If the Magistrate has not jurisdiction to try the case or send it for trial, and considers further detention unnecessary, he or she may order the accused to be forwarded to a Magistrate having such jurisdiction.⁸

A Magistrate authorizing the detention of an accused person in police custody under sub-section (2), may order that the accused be examined by a medical officer of nearest government hospital before he is handed over to such custody; and upon expiry of the period of police custody, the accused shall be produced before the Magistrate without unnecessary delay; and if, upon such production, there appears to be any mark of injury on the body of the person accused, or the accused alleges that he has been subjected to torture during such custody, the Magistrate shall direct that the accused be examined by a medical officer of the nearest government hospital and where the medical report reveals that the accused has been subjected to torture during police custody, the Magistrate shall proceed in accordance with law.⁹ A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.¹⁰ A copy of the order, along with the reasons behind it, must be sent to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate to whom he reports if the order is issued by a magistrate other than the Chief Metropolitan Magistrate or the Chief Judicial Magistrate.¹¹

If a Chief Metropolitan Magistrate or Chief Judicial Magistrate issues such an order, he must provide a copy of it along with his justification to the Chief Metropolitan Sessions Judge or the Sessions Judge to whom he reports.¹²

If the investigation is not completed within 120 days of the date that the information about the offense was received or the Magistrate's order for it was made, the Magistrate who has the authority to take cognizance of the offense or issue the investigation order may, if the offense to which the investigation relates is not punishable by death, life in prison, or imprisonment for more than ten years, release the accused on bail to the satisfaction of the Magistrate; and the Court of Session may, if the investigation involves a crime punishable by death, life in prison, or imprisonment for more than ten years, release the accused on bail to the satisfaction of the Court:

Provided that if an accused is not released on bail under this sub-section, the Magistrate or, as the case may be, the Court of Session shall record the reasons for it:

Provided further that in cases in which sanction of appropriate authority is required to be obtained under the provisions of the relevant law for prosecution of the accused, the time taken for obtaining such sanction shall be excluded from the period specified in this sub-section.¹³

⁵ *Saifuzzaman v State* (2004) 56 DLR 324, 333.

⁶ DLR 324, 343.

⁷ Haque, Zahirul, *Code of Criminal Procedure* (first Published 2011, Bangladesh Law Book Co.) 354. ⁸ *Code of Criminal Procedure 1898, s 167.*

⁸ Ali Akkas, Sarkar, *Law of Criminal procedure* (first published 2006, Bijoy Law Book House) 141.

⁹ Code of Criminal Procedure 1898, s 167.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

Police Custody and Judicial Custody

Section 167 distinguishes between police custody and judicial custody. Police custody permits the investigating officer to interrogate the accused while under their control, whereas judicial custody places the detainee in jail under the supervision of prison authorities. Judicial custody is considered safer, as it distances the detainee from the potential coercion of investigators. Courts in Bangladesh have repeatedly emphasized that remand in police custody should be an exceptional measure.¹⁴ Judicial custody is the term used when someone is detained by a magistrate. In contrast to police custody, a person is detained in this situation for a specific, limited amount of time on the magistrate's orders. The magistrate takes responsibility for the individual or suspect and keeps him hidden from the public to shield him from any abuse or harassment by members of the public or a particular social group.

When a person is first arrested due to an FIR lodged in the police station and is accused of a cognizable offence, he is brought before the magistrate within 24 hours. The magistrate decides whether to release him on bail or send him to judicial custody or police custody. The period of judicial custody can extend up to 90 days in the cases which involve the death penalty as punishment, imprisonment for life, or imprisonment for 10 years or more.¹⁵

If a person is in judicial custody and the investigation is still going on and the charge sheet has not been filed by the police within 60 days if the offence has imprisonment for 10 years or less than 10 years and within 90 days for offences having imprisonment for 10 years or more, and he has not applied for bail, he will continue to be in custody.¹⁶ This was an attempt to curb the prevalent misuse of remand as a means of extracting confessions rather than collecting evidence through scientific investigation.

Maximum Time Limit of Detention

A detainee cannot be kept in custody beyond fifteen days from the date of arrest, unless extended by a magistrate. The purpose of this restriction is to ensure that liberty is not indefinitely compromised during investigation. For grave offences the magistrate may authorize constant detention but judicial discretion must be exercised with restraint.¹⁷

The statutory limit reverberates with Article 33(2) of the Constitution of Bangladesh, which directives that an arrested person must be produced before a magistrate within twenty-four hours and cannot be detained outside this period without judicial authorization.

Magistrate's Role in Authorizing Remand

The magistrate's contribution is important in safeguarding that detention under Section 167 does not become illogical. The legislation mandates that the magistrate:

1. Examine the police notebook to assess progress in investigation
2. Document the rationale behind the remand;
3. Make sure the detainee is not harassed or coerced into making a confession by requesting remand;
4. Take the accused's constitutional rights into account before making any directives.

In *BLAST v Bangladesh*, the Court held that magistrates are not mere rubber stamps for police applications.¹⁸ In order to prevent remand orders from being used as tools of coercion or harassment, they must utilize independent judgment.

¹⁴ *BLAST v Bangladesh* (2003) 55 DLR 363 (HCD).

¹⁵ Code of criminal procedure 1898, s 167.

¹⁶ Monesh Mehndiratta, 'Judicial Custody vs Police Custody' (*iPleaders Blog*, 18 June 2022)

<<https://blog.ipleaders.in/judicialcustody-vs-police-custody/>> accessed 7 September 2025.

¹⁷ Code of criminal procedure 1898, s 167.

¹⁸ *BLAST v Bangladesh* (2003) 55 DLR (HCD) 363.

Constitutional Safeguards under the Constitution of Bangladesh

The Constitution of Bangladesh provides for the freedom of citizens from arbitrary detention. Articles 31, 32, 33 and 35 interact with Section 167.

Article 31 – Protection of Law

Article 31 guarantees that every citizen shall be entitled to the protection of the law and to be treated in accordance with law. This provision serves as the constitutional backbone for the principle of legality that all acts of the executive, including the police, must have lawful authority.¹⁹ Arbitrary or prolonged detention under Section 167 thus violates this right.

Article 32 – Right to Life and Personal Liberty

Article 32 provides that no person shall be deprived of life or personal liberty except in accordance with law. Section 167 must therefore be applied in a manner that least restricts liberty and ensures necessity and proportionality in detention decisions.

Article 33 – Safeguards as to Arrest and Detention

Procedural due process guarantees are embodied in Article 33. It stipulates that an individual detained must be:

- Informed of the grounds of arrest;
- Allowed to consult and be defended by a legal practitioner of their choice; and
- Produced before a magistrate within 24 hours of arrest.

These provisions directly complement Section 167, which takes effect after the initial 24-hour period. Violation of these safeguards such as failing to produce the detainee before a magistrate or denying legal counsel renders the detention illegal. In *BLAST v Bangladesh*, the Court observed that these constitutional guarantees are not merely formalities but substantive rights that must be strictly observed in every remand proceeding.²¹

Article 35 – Protection from Torture and Cruel Treatment

Article 35(5) provides explicitly that, “No person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment.”

A person may be legally detained while an investigation is underway under Section 167, but this power must adhere to constitutional protections. Part of those protections is Article 35(5). It establishes a strict constitutional limit: torture or cruel treatment is never acceptable, even in cases where detention is permitted. Therefore, the outer bound of legitimate detention under Section 167 is defined by Article 35(5). This indicates that a remand order that leads to torture is unconstitutional in addition to being a procedural irregularity. Consequently, in order to comprehend the conceptual legitimacy of Section 167 itself, Article 35(5) becomes crucial.

Interrelationship between the Constitution and Section 167 CrPC

An essential legal barrier protecting liberty and fundamental rights against state action is provided by the Bangladeshi Constitution. The right to permitted safety is recognized under Article 31, which guarantees that no action that exposes liberty or life is taken unless it is permitted by law. The fundamental right to personal liberty is definite by Article 32, which needs quick release in the event that an arrest is illegal. Main technical protections are required by Article 33 including a strict 24-hour restriction on police custody former to presentation before a magistrate for court permission and quick notification of grounds for arrest and access to direction. Preventive detention is administrated distinctly by articles which have their own time restrictions and protections.

¹⁹ Shahdeen Malik, ‘Due Process and the Limits of Judicial Activism in Bangladesh’ (2003) 15 Dhaka University Studies Journal 45.

²¹ *BLAST v Bangladesh* (2003) 55 DLR 363.

Conclusion

This chapter has evaluated the abstract and legal basis of Section 167 of the Code of Criminal Procedure in Bangladesh. It examined the historical origins of the provision, the statutory structure principal detention during investigation and the distinctions between police custody and court custody. The part of the magistracy in directing detention orders was highlighted as a safeguard against arbitrary removal of liberty.

Judicial Interpretation of Section 167 of the Code of Criminal Procedure in Bangladesh

Introduction

In Bangladesh view, the judicial interpretation of Section 167 of the Code of Criminal Procedure, 1898 (CrPC) has been important feature how to association the protection of individual liberty with the demands of law execution. While Section 167 permits the detention of an accused person under police custody while an investigation is proceeding this detention is strictly subject to court mistake to avoid arbitrary or unfair deprivation of liberty. In order to ensure agreement with the basic rights definite by Articles 31, 32, 33, and 35²², the courts have closely examined the scope, limitations and procedural necessities of police remand finished time.

Landmark Judgments of the Supreme Court of Bangladesh

The Supreme Court of Bangladesh has specified many judicial interpretations of Section 167. Through these interpretations Section 167 has suffered many developments. These interpretations have extremely influenced the rights of detainees, the limits of police powers and the responsibility of magistrates in granting remand.

Bangladesh and others v. BLAST and others

In *Bangladesh and others v. BLAST and others* (2016)²³, This governing is a major judicial statement of constitutional supremacy over expatriate procedural systems. The Appellate Division resolute that the protection of detainee rights is a constitutional duty rather than just a legal necessity by joining Articles 31, 32, and 35 of the Constitution into the interpretation of Section 167 CrPC. The case highlights a important point in the constitution of criminal proceedings in Bangladesh flowing the focus of Section 167 from administrative control to the protection of human pride and judicial accountability.²⁴

Saifuzzaman v. State

In *Saifuzzaman v. State* (2004)²⁵, the High Court Division observed the misappropriation of the powers of custody and police remand under Sections 54 and 167 of the Code of Criminal Procedure (CrPC). The petitioner was arrested without a warrant and put in long prison without being produced before a Magistrate within twentyfour hours as required by law.

BLAST v. Bangladesh

The case of *Bangladesh Legal Aid and Services Trust (BLAST) v. Bangladesh* (2003)²⁶ It emphasized that the accused must appear in person before the magistrate, who must carefully consider whether additional custody is necessary. The Court also noted that no executive authority can override these protections and that judicial discretion under Section 167 must always be used in accordance with the Constitution.

The Court issued 15 historic directives to change the remand and arrest process in order to address these abuses. These included:

²² The Constitution Of the people's Republic of Bangladesh 1972.

²³ 8 SCOB (AD) 1.

²⁴ Ibid.

²⁵ 56 DLR (HCD) 324.

26 55 DLR (HCD) 363.

1. Strict judicial review of remand applications;
2. Mandatory physical production of inmates before Magistrates;
3. Prohibition of torture while imprisonment;
4. Detainees' medical examinations both before to and following detention; and
5. Accountability for law enforcement agents breaking these safeguards.²⁰

This case is the first thorough judicial exertion to connect Section 167 CrPC with constitutional rights and international human rights rules. It transformed the legal understanding of Section 167 from a foreign tool of control to a constitutional safeguard of personal liberty.

Some Other Cases Judicial Interpretation of Section 167 in Bangladesh

Government of Bangladesh and Others v. Mahmudur Rahman and Another (2016) 24 BLT (AD) 438

The choice in *Government of Bangladesh and Others v. Mahmudur Rahman and Another*, This ruling is a major judicial proclamation of constitutional supremacy over colonial procedural systems. The Appellate Division determined that the protection of detainee rights is a constitutional duty rather than just a legal obligation by incorporating Articles 31, 32 and 35 of the Constitution into the interpretation of Section 167 CrPC. The case highlights a significant point in the constitution of criminal proceedings in Bangladesh, shifting the focus of Section 167 from organizational control to the protection of human dignity and judicial accountability.

Major (Retd) M. Khairuzzaman v. The State (6 BLT (HCD) 130)

The case of *Major (Retd) M. Khairuzzaman v. The State* is a key decision of the High Court Division that The case is an important judicial affirmation of constitutional superiority over colonial procedural processes. The Appellate Division determined that the protection of detainee rights is a constitutional duty rather than just a legal requirement by incorporating Articles 31, 32, and 35 of the Constitution into the interpretation of Section 167 CrPC. The case highlights a significant point in the constitutionalisation of criminal proceedings in Bangladesh, shifting the focus of Section 167 from administrative control to the protection of human dignity and judicial accountability.²¹

Government of Bangladesh v. Shah Alam (1995) 3 BLT (AD) 172

The case of *Government of Bangladesh v. Shah Alam* is a significant Appellate Division decision that an important judicial endorsement of constitutional supremacy over colonial procedural procedures may be found in this case. By applying Articles 31, 32, and 35 of the Constitution to the interpretation of Section 167 CrPC, the Appellate Division concluded that the preservation of detainee rights is a fundamental obligation rather than merely a legal necessity. The case represents a critical moment in the constitution of criminal procedures in Bangladesh, changing the focus of Section 167 from administrative control to the preservation of human dignity and judicial accountability.²²

Recent Amendment of Section 167 of the Code of Criminal Procedure, 2025

In order to ensure accountability, transparency, and human rights compliance in the process of detention and police remand, the Code of Criminal Procedure (Amendment) Act, 2025 significantly changed Section 167 of the CrPC. The government's legislative response to long-standing court concerns about the abuse of police

²⁰ *BLAST v. Bangladesh* (2003) 55 DLR (HCD) 363.

²¹ *Major (Retd) M. Khairuzzaman v. The State* (6 BLT (HCD) 130).

²² *Government of Bangladesh v. Shah Alam* (1995) 3 BLT (AD) 172.

remand and torture in detention is shown in the amendment, especially in the addition of sub-section (2A) and the alteration of sub-section (2).

The Magistrate to whom an accused is transferred may allow detention either in police or court custody, but for a total term not exceeding fifteen days. Where continued detention is considered essential beyond this limit, the Magistrate may impose judicial custody solely, ensuring that no prisoner remains in police custody above the statutory limitation.

Moreover, the amendment provides an important procedural safeguard the accused must be produced before the Magistrate either in person or through electronic video linkage which attempts to modernize the system and guarantee that court supervision remains effective even in remote sessions. Additionally, the amendment limits the authority to provide police custody to magistrates with specific authority, reducing the possibility that less experienced judges will issue arbitrary remand orders.²³

Conclusion

In the Bangladesh, judicial interpretation of section 167 CrPC have changed the clause from a colonial control tool to a fundamental guarantee of individual freedom. The supreme court's important rulings *BLAST v. Bangladesh*, *saifuzzaman v. State*, and Mahmudur Rahman, firmly established that custody and imprisonment must rigorously conform with Articles 31, 32, 33, and 35 of the Constitution. These verdicts reinforced judicial control, restrained police authority, and stressed the dignity and rights of inmates.

Rights of the Detainee and Police Procedure

Introduction

The detention of an accused person while an inquiry is conducted is the fundamental component of the criminal justice system. The process by which police may request questioning while incarcerated is outlined in Section 167 of the Code of Criminal Procedure (CrPC), and magistrates have judicial control. Although the legislation aims to promote efficient investigation, its abuse might directly jeopardize the fundamental rights to liberty, dignity, and due process.

This chapter looks at how statute law protects detainee rights, how court interpretation has impacted police operations, and whether the existing system conforms with international human rights responsibilities.

Statutory rights of the detainee under the code

Every detained person has constitutional rights under Section 167, which can prevent the misuse of Section 167 such as follows:

Rights of the Accused and Detainee under the Constitution

In order to protect citizens against arbitrary government action, particularly during the pre-trial phase of the criminal justice system, the Constitution of the Citizens' Republic of Bangladesh lays forth a strong foundation of fundamental rights. Every statutory provision, including those included in the CrPC, must be interpreted in light of these rights as they are the supreme law of the land.²⁴ However, a critical analysis of their actual implementation shows that these fundamental protections are often denied, making them unrealistic for many people who come into contact with the criminal justice system. Bangladesh's Constitution makes it clear that restrictions on personal freedom may only be implemented in compliance with the law. Article 32 states that no one may be deprived of life or personal liberty unless it is permitted by law; Article 33 outlines the particular rights of those who are arrested; and Article 31 ensures the protection of the law. Together, these provisions constitute a domestic bill of rights for detainees, later reinforced by judicial interpretation and by Bangladesh's

²³ Code of Criminal Procedure (Amendment) Act, 2025, s 167(2).

²⁴ The Constitution of the People's Republic of Bangladesh 1972, art 26.

ratification of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture (CAT).²⁵

Right to legal representation

Article 33(1) of the Constitution unequivocally states that no person who is arrested "shall be denied the right to consult and be defended by a legal practitioner of his choice".²⁶ This right is a cornerstone of the due process framework, intended to ensure that a detainee is not left isolated and vulnerable in the face of the state's coercive authority. In order to protect the detainee from potential abuse during questioning, contest the validity of the arrest, and advise them on their right to remain silent, legal counsel must be present from the moment of arrest. The Supreme Court of Bangladesh, in the historic Bangladesh Legal Aid and Services Trust (BLAST) v Bangladesh judgment, upheld this principle by ruling that detainees must be granted access to their lawyers during interrogation.²⁷

Production before Magistrate within 24 Hours

Every individual who is arrested or detained "must be produced before the nearest magistrate within twenty-four hours of such arrest and no such person shall be detained in custody beyond the said period without the authority of a magistrate," according to Article 33(2) of the Constitution".²⁸ This clause, replicated in Section 61 of the CrPC, is a key protection against secret or incommunicado detention and is designed to ensure rapid judicial oversight of executive conduct. The act of constructing a detainee before a magistrate is not proposed to be a mere administrative formality, its functional purpose is to allow an independent judicial officer to scrutinize the grounds for the arrest and the necessity of any further detention thereby acting as a central check on the power of the police.

This protection promises that police behavior is directly scrutinized by the courts and prohibits illegal detention. The Constitution also reinforces this protection.²⁹

Requirement of Submitting Case Diary

The investigating officer must forward the case diary and supporting documents before seeking remand.³⁰ This ensures transparency and prevents arbitrary or baseless applications.

Medical Examination

Courts have required medical examination of detainees before and after police custody to reduce the risk of torture.³¹ This provides evidentiary protection in cases of alleged abuse.

Access to Legal Counsel

Detainees have the right to legal representation during the remand hearing stage, despite the fact that this right is frequently disregarded in practice. This right comes from constitutional requirements of fair process.³² In Bangladesh Legal Aid and Services Trust (BLAST) v Bangladesh, the High Court Division maintained that denial of access to counsel during remand proceedings constituted a violation of Article 33 and impairs the fairness of the investigative process.³³

²⁵ International Covenant on Civil and Political Rights (adopted on 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

²⁶ The Constitution of the People's Republic of Bangladesh 1972, 33(1).

²⁷ *BLAST v Bangladesh* (2003) 55 DLR (HCD) 363.

²⁸ The Constitution of the People's Republic of Bangladesh 1972, art 33(2).

²⁹ The Constitution of the People's Republic of Bangladesh, art 33.

³⁰ Code of Criminal Procedure 1898, s 167(1).

³¹ *BLAST v Bangladesh* (2003) 55 DLR (HCD) 363.

³² The Constitution of the People's Republic of Bangladesh, art 33.

³³ *BLAST v Bangladesh* (2003) 55 DLR (HCD) 363.

Judicial Interpretation Strengthening Detainee Rights

A key factor in the transformation of Section 167 from a procedural investigative tool into a rights-based safeguard has been judicial interpretation. Bangladeshi courts, especially the High Court Division, have rendered historic rulings that strengthen detainee rights and clearly define boundaries for police authority.

BLAST v Bangladesh

In *BLAST v Bangladesh*, the High Court issued comprehensive directives on the proper use of remand. The court held that vague allegations cannot justify police custody and magistrates must apply judicial mind.³⁴ The judgment also established important guidelines for humane treatment during interrogation.

Saifuzzaman v State

In *Saifuzzaman v State*, the court reaffirmed that remand is an exception, not the rule. The magistrate must question the detainee, examine the medical condition, and record reasons in writing.³⁵

Police Procedure under Section 167 CrPC

Section 167 of the CrPC grants significant discretionary powers to the police and the judiciary to extend the detention of an accused person beyond the initial 24-hour period. This provision is activated when "it appears that the investigation cannot be completed within the period of twenty-four hours and there are grounds for believing that the accusation or information is well-founded".⁴³ The officer in charge of the police station is empowered to forward the accused to the nearest magistrate, along with a copy of the entries in the case diary, to seek authorisation for further detention.

The core of the power lies in subsection (2), which authorises a magistrate to permit the detention of the accused "in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole". This includes the power to grant 'police custody', commonly known as remand, which allows the police to retain direct physical custody of the accused for interrogation. Although the total period of police custody is capped at 15 days, this period is when detainees are at their most vulnerable. The magistrate's evaluation of the need for more investigation, based on the information supplied by the police, determines whether to issue remand.³⁶

Furthermore, Article (3) demands that a magistrate authorizing detention in police custody "shall record his reasons for so doing". This requirement is an important, though frequently overlooked, accountability tool meant to guarantee that the choice is not arbitrary but rather is founded on a careful analysis of the case. While the Act provides a framework for court monitoring, the considerable discretion allowed to the police to request remand, combined with the often-perfunctory nature of the magisterial review, produces a legal environment where these extensive powers can be, and regularly are, abused.

Misuse of Section 167 CrPC: From Interrogation to Torture

This misuse is not an occasional aberration but a widespread and institutionalized practice that fundamentally subverts the principles of criminal justice. The primary and most egregious misuse of remand is the extraction of confessions through torture. The period a detainee spends in police custody is consistently identified by human rights organisations as the time of greatest risk for physical and psychological abuse.³⁷ This practice directly violates the constitutional prohibition against torture under Article 35(5) and the right against self-incrimination

³⁴ Ibid.

³⁵ *Saifuzzaman v State* (2004) 56 DLR (HCD) 324.

⁴³ The Code of Criminal Procedure 1898, s 167(1).

³⁶ The Code of Criminal Procedure 1898, s 167(2).

³⁷ Amnesty International, 'Bangladesh: End impunity for torture and uphold victims' right to reparation' (26 June 2024)

<<https://www.amnesty.org/en/latest/news/2024/06/bangladesh-end-impunity-for-torture-and-uphold-victims-right-to-reparation/>> accessed 14 October 2025.

under Article 35(4), yet it persists as a routine investigative shortcut.³⁸ The confessions obtained are often legally worthless but serve to close cases quickly and create a facade of investigative success.

Conclusion

Section 167 CrPC represents a careful balance between investigative necessity and the protection of liberty. Although detainee rights have been greatly strengthened by judicial interpretation, the legal protections are still being undermined by practical issues. For police system to remain legal, civilized and compliant with both constitutional and international human rights obligations, operative implementation, healthier judicial oversight and rights based reforms are necessary.

Concluding Remarks

Introduction

This chapter plans the education's overall conclusions, suggestions and findings. The results highlight the investigation's key points such as particular trends, patterns or irregularities discovered. These outcomes serve as the foundation for real recommendations that give existing measures or approaches for dealing with the identified problems or exploiting on the study's recognized prospects. The relevance of the study and its helps to the area are then affirmed in the conclusion which brings all of these parts together. It stresses the possible significance and effect of the findings and recommendations while taking into account their larger implications. This portion makes sure the reader recognizes the study's primary findings, the suggested course of action and the more picture of how these perceptions can impact change or development knowledge in the field.

Findings

From my perspective, a comparative examination of the section 167 of CrPC has found these gaps, such as:

Gap Between Law and Practice: Although Section 167 of the CrPC lays down a clear procedural framework for remand, there exists a significant gap between the legal provisions and their implementation. Judicial safeguards, such as mandatory appearance before a magistrate, the right to legal representation, and medical examination, are often bypassed or not properly enforced.

Misuse of Police Remand: The police are still denying and torturing those detained in custody, as human rights organizations have revealed in various reports.

Inadequate Judicial Scrutiny: Magistrate grant remand based on police Diary or FIR but magistrate should fulfil their duty and proper investigation. So that no innocent person is detained for long time

Weak Enforcement of Constitutional Rights: The rights recognized under Article 31 to 35 are not effectively available during remand, such as protection from torture and the right to consult a lawyer. Many detainees do not have the opportunity to meet with their lawyers within 24 hours.

RECOMMENDATIONS

Based on the findings the following recommendations are proposed to strengthen legal protection, improve police operations and ensure constitutional and international acceptance:

Strengthening Judicial Oversight and Eliminating Mechanical Remand: To improvement the remand system it is important that Magistrates stop granting police custody mechanically a practice often described as mechanical remand. Instead of acting as an allowance of the police Magistrates must act as guardians of the Constitution, rigorously following the guidelines set in *BLAST v Bangladesh* and *Saifuzzaman v State*.

Institutionalizing the 2025 Amendment Safeguards: To successfully institutionalize the protections introduced by the Code of Criminal Procedure (Amendment) Act, 2025 exacting enforcement is required. Firstly,

³⁸ The Constitution of the People's Republic of Bangladesh 1972, art 35(5).

the statutory limit of 15 days for total detention joining both police and judicial custody must be strictly applied to prevent the abuse of Section 167 and protect personal liberty. Secondly the new condition for medical examinations before and after police custody under sub-section (2A) is a key mechanism for responsibility.

Ensuring Effective Legal Representation at the Remand Stage: To correctly support Article 33(1) of the Constitution the courts must confirm that an accused person has access to a lawyer nearly upon being brought before a Magistrate. Presently detainees often face this critical stage alone leaving them weak. It is essential for the judiciary to strictly enforce the BLAST directions which permit legal counsel during interrogation and remand hearings.

Utilization of Technology for Transparency: The 2025 Amendment presents electronic video linkage as a practical solution to procedural delays exactly preventing police from using transport logistics as an reason not to produce an accused person in court. This knowledge allows Magistrates to visually inspect the physical condition of a detainee remotely and ensuring their safety is monitored without delay.

CONCLUSION

According to research the use of Section 167 of the CrPC regularly conflicts with the constitutional viewpoint of protecting separate liberty and opposing arbitrary state action despite the fact that it is projected as a legally controlled way to help successful criminal investigations. The integrity of the criminal justice system is threatened by the extended suppression of remand insufficient, judicial oversight and systematic failures to tool present security procedures.

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