

Volume-14

Number-1

January-June 2020



PRIME UNIVERSITY  
**JOURNAL**

114 /116, Mazar Road  
Mirpur-1, Dhaka-1216

# **Prime University Journal**



**Prime University**

**Centre for Research, HRD and Publications  
Prime University**

E-mail : [crhp@primeuniversity.edu.bd](mailto:crhp@primeuniversity.edu.bd)  
[primeuniversity\\_crhp@yahoo.com](mailto:primeuniversity_crhp@yahoo.com)

Website: <http://www.journal.primeuniversity.edu.bd>

Published and copyright protected by:  
**Prime University**

**Price:**    BDT 250.00  
              US\$    5.00

# **Prime University Journal**

Volume-14, Number-1  
January-June: 2020

## Editorial Board

### Patrons:

Md. Ashraf Ali Chairman, Board of Trustees	Chief Patron
Al-Haj Tofazzal Hossain Senior Vice Chairman, Board of Trustees	Patron
Md. Mamun Sobhan Treasurer, Board of Trustees	Patron
Mir Shahabuddin Member, Board of Trustees	Patron
Ashfaq U. Chowdhury Member, Board of Trustees	Patron

### Editorial Board:

Prof. Dr. M. Jahangir Alam Vice Chancellor, Prime University	Chief Editor
Prof. Dr. Mohammad Arshad Ali Dean, Faculty of Arts and Social Sciences, Prime University	Executive Editor
Prof. Dr. Mahesh Gandhi Sambalpur University Burla	Member
Prof. Dr. Rajat Kumar Pal Dept of Computer Science and Engineering, University of Calcutta	Member
Dr. Md. Hamid Uddin Head of Business Programs The University of Southampton, Malaysia	Member
Prof. Dr. Jamila A. Chowdhury Department of Law, University of Dhaka	Member
Prof. Dr. Zinnat Ara Begum Department of Management Studies, University of Rajshahi	Member
Prof. Dr. M. Shahinoor Rahman Department of English, Islamic University	Member
Prof. Dr. Md. Zahid Husain Khan Department of Civil Engineering, Prime University	Member
Prof. Dr. M. Mahbubur Rahman Department of EEE, Prime University	Member

## **Disclaimer**

Prime University shall be the sole copyright owner of all the materials published in the Journal. Apart from fair dealing for the purposes of research, personal study or criticism, no part of this Journal be copied, adapted, abridged, translated or stored in any retrieval systems, computer systems or other systems or be reproduced in any form by any means whether electronic, mechanical, digital, optical, photographic or otherwise without prior written permission from the University.

The editors, publishers and printers do not own any responsibility for the views expressed by the contributors and for their subjective views about any important legal or non-legal issues contained in the Journal and the author shall be solely responsible for their scholarly opinions and findings.

## **Editorial Note**

It is a pleasure to present the January to June 2020 issue (vol. 14, no. 1) of Prime University Journal, (ISSN: 1995-5332). This Journal is a peer-reviewed and author-blind International Journal. It publishes research based articles on various topics in different disciplines such as literature, culture, business, arts, social science, law, technology, science, engineering and allied disciplines. It has an Editorial Board involving the national and international scholars of different disciplines. The issues of the Journal are published in June and December every year.

In this issue six articles are presented covering different disciplines and passed through rigorous peer reviewed process. A book review has also been included here.

The first article describes the different provisions relating to debts and their liability under Hindu law and tries to find out the state of its practices in Bangladesh.

The second one aims at exploring the similarities and the differences between the poetry written by Jibanananda Das and W. B. Yeats.

The third article reviews the role of digital forensic in the criminal justice system in Bangladesh.

The article fourth aims at exposing the impacts of using mother tongue in English language learning classes. It shows the reasons and the remedies of using the mother tongue and problems and prospects of using English language in English language learning classes.

The fifth one is an attempt to investigate the consequences emanated from the conflict between the text and testing process at the Higher Secondary Level in Communicative Language Teaching (CLT) approach.

The last article determines the attitudes of Bangladeshi consumers towards Chinese products and the reflection on repurchasing decision.

A book review on the book titled 'Making Peace, Making Riots: Communalism and Communal Violence, Bengal 1940-1947',

edited by Anwesha Roy, published from Cambridge University Press has added an additional dimension to the Journal.

The COVID-19 epidemic was a disruption of the continuation of uninterrupted process of publication of the Journal. However, with the help of the online platforms and enthusiastic cooperation of the researchers concerned it has been possible to publish this issue.

I would like to take the opportunity to express my profound gratitude to the Patrons and all the Members of the Editorial Board of the Journal. I appreciate the authors of the articles for their contribution in this issue. My sincere thanks to the peer reviewers for their utmost cooperation.

I always welcome scholarly articles from scholars home and abroad to contribute in the Journal.

**Prof. Dr. M. Jahangir Alam**  
Chief Editor



## Contents

<b>A Study on Debts and Its Liability under Hindu Law: State of Bangladesh</b> Md. Abu Hanif Rumana Sharmin Barsha	09
<b>Jibanananda Das and William Butler Yeats's Poems: A Comparative Study</b> Md. Abdul Awal	36
<b>Digital Forensic in the Criminal Justice System in Bangladesh: A Critical Review</b> Golam Sarowar	53
<b>Impacts of Using First Language at the Tertiary Level in ESL Classes: A Study at a Private University</b> Rakib Uddin	74
<b>The Consequence of the Conflict between the Text and the Evaluation Process of English at the Higher Secondary Level in Bangladesh</b> Shorna Akter	100
<b>Factors Influencing Customer Satisfaction Towards Buying Chinese Products : An Empirical Investigation on Bangladeshi Customers</b> Zakia Razwana Haque M. Jahangir Alam	118
<b>Book Review:</b>	
<i>Making Peace, Making Riots: Communalism and Communal Violence, Bengal 1940–1947</i> , edited by Anwesha Roy, Cambridge University Press, 2018. Pages 277. ISBN 978-1-108-42828-6 Hardback Md. Mostafijur Rahman	135

# A Study on Debts and Its Liability under Hindu Law: State of Bangladesh

Md. Abu Hanif<sup>1</sup> and Rumana Sharmin Barsha<sup>2</sup>

**Abstract:** Debt usually means a sum of money that somebody owes to another under an agreement. In its primary sense, it denotes a loan, i.e. a paid money obligation arising out of contract and recoverable by suit. It means, in its generic sense, a sum of money payable from one person to another. Liability refers to the duty of payment of debt. This liability is grounded on legal or moral or religious duty. Among the Hindus, it has a religious aura and great significance, because the heaven or hell of a deceased Hindu depends on payment or nonpayment of a father's debts by son. In Hindu jurisprudence payment of debts is a moral obligation that takes precedence over legal rights; it is one of the fundamental principles of this system of law. In relation to the payment of debts, this rule emphasizes on a high sense of morality as it is believed essential for the release of the soul of the debtor after death. These Sastric laws on debt and their liability are developed by the judicial decisions and statutory enactments in India at the dawn of this century. A major modification of Hindu debt law has been made in India by the Hindu Succession (Amendment) Act, 2005. In Bangladesh, laws relating to the payment of debt are not as updated as India. This study mainly describes the different provisions relating to debt and their liability under Hindu law and tries to find out the state of its practices in Bangladesh.

**Keywords:** Debt, morality, pious obligation, coparcenary property, rule of *Damdapat*.

## Introduction

“Promises make debt, and debt makes promises” (Danish Proverb),  
“When you get in debt you become a slave” (Andrew Jackson,  
the 7th USA President).

Hindu Law, though an ancient legal system holds still its importance as a great legal system of the world for its pro-human features. At least 800 million people and more or less a seventh percentage of the world's citizens remain influenced and officially

<sup>1</sup> Assistant Professor, Department of Law, Bangladesh University of Professionals (BUP), Dhaka, Bangladesh. E-mail: abuhaniflaw@yahoo.com

<sup>2</sup> Assistant Professor, Department of Law, North Western University, Khulna, Bangladesh. E-mail: rumana.barsha@gmail.com

run by Hindu Law in any of forms, (Menski, 2003, p.3). The concept 'debt' occupies an important place in the Hindu system of law. This is an area that illustrates one of the fundamental principles of Hindu jurisprudence, namely, moral obligations take precedence over legal rights. In this legal system, the non-payment of debts results in sin and consequences of which are available after the death of the debtor (Agarwal, 2014, p. 355). *Smritis*, an authoritative body of Hindu Texts, treats the non-payment of debt as wrongdoing. The Hindu Saints have repeatedly enjoined that one must pay one's debts. *Brihaspati*, a sage of *vedic* era, ordained: "one who does not repay his debts will be born hereafter in the creditor's house as a slave, a servant, a woman or quadruped" (Colebrooke, vol.1, p. 334 as mentioned in Mulla, 2011, p. 360). *Vedic* priest Katyayana of 2<sup>nd</sup> Century B.C. says: "He, who having received a sum lent or the like does not repay it to the owner, will be born hereafter in the creditor's house as a slave, a servant, a woman or a quadruped" (Agarwal, 2014, pp. 355-356). Narada, a *vedic* sage, says: "If a very religious and devoted died indebted, the whole of the merit of his sacrifices and devotions will belong to his creditor" (Narada, I, 9). Hindu Saints viewed that if a Hindu departs his life behind debt, his issues such as sons, son's son, and son's son's son must repay his debts, but if the debts are incurred for illegal or unethical purposes, they are free from liability to pay. Some other texts say sin was on-payment of debt and say a person in debt is going to hell (Agarwal, 2014 p. 355). The ground of subject to the payment of the debts of another has a moral, sacred as well as lawful origin under Hindu law. Debts may be incurred on one's own account or through someone else. The Karta of a joint Hindu family may incur or contract a debt for the needfulness or interest of the family. Where there is debt incurred through someone else its liability arises from a legal duty. In such cases, the person incurring the debt is working as an agent of the person paying the debt. When a person receives property of another as a donee his responsibility to make payment of debts of another arises on a moral ground (Koundal, 2019). As stated by Mayne, the responsibilities of a Hindu to pay the debts (contracted by another) happens from three separate sources, namely, religious, moral, and legal. Where a person receives property of another as a donee, it is his moral duty to pay debts incurred by his donor. It is the legal duty of one person who has been working as an agent of another person to reimburse the debt contracted by the latter. It is the spiritual and religious duty of a son, grandson, and great-grandson to discharge the debts of their father, grandfather, or great-grand father respectively (Maine, 2014, pp. 913-914). The

only difference between their liabilities was that grandson had to pay only the principal amount where the son had to pay it with interest. The great-grandson had to pay merely to the limit to joint family property's portion in his hands; though the son and the grandson were made personally liable, he was not personally liable, (Badaruddin, 2003). But now it has been recognized that liability to pay the debt by the son, the grandson, and the great-grandsons' co-extensive that means their liability is the same (Masit Ullah v. Damodar Prasad, 1924), and liability go to all of them to the limit of a joint family property's portion in their hand (Jamboo Rao v. Annappa, 1914). they are not personally liable. The duty of the son to repay the debts incurred by the father stems from an obligation of piety and religion for the son to save his father from the sin of non-payment. This obligation has thus become pious; but although this obligation is a religious one, it has become legal now (Anthony Swamy v. M.R. Chinna Swamy, 1970). The debts should not, however, be contaminated with barred by limitation, illegality, or immorality or (Girdharee Lall v. Kantoo Lall, 1874). Liability go to sons to pay these debts even though they are not received for legal necessity or for the benefit of the estate (Sita Ram v. Radha Bai, 1968). "Pious obligation" principle to disburse father's debt has been abrogated by the Hindu Succession Act (Amendment Act, 2005) in India. The status of Bangladeshi law regarding this is still at the birth stage. Now question is-What are the provisions relating to debts and liability in Hindu Law upon which this concept stands and how far they are practiced in Bangladesh? This descriptive and analytical study has been accomplished based on the sources and materials available in the Sastric texts, original statutes, case laws, newspaper articles, journal articles, books, and online reliable materials, etc. This piece of writing is expected to carry out credit to the author for giving a clear appraisal of the field of Hindu law in Bangladesh.

## **Objectives of the Study**

This study primarily aims at describing, exploring, and analyzing Hindu laws and practices relating to debts and their liability in Bangladesh as well as Indian perspectives. Other objectives are to find its existing status in Bangladesh in comparison with India and examine the need of updating the Hindu debt laws in Bangladesh.

## **Conceptual and Theoretical Framework of the Study**

### **(A) 'Debt':**

It means "liability on a claim; a specific sum of money due by agreement or otherwise"; ancestral debt means that an heir can be compelled to pay, and antecedent debt indicates an old debt that may serve as consideration for a new promise (Garner, 2011, p. 462). According to Oxford Dictionary, 'Debt' means a sum of money somebody owes (Hornby, 2010, p. 323). It means- 'a sum of money due from one person to another' (Osborn's Concise Law Dictionary, 2000, p.108). The plural word "Debts" includes several creditors or separate loans to a total and the singular word "Debt" includes a single creditor and presumably a single credit line (English Forums.com). The General rule is that debt need to be paid if it is not time-barred but in certain cases, time-barred debt is also payable under Hindu Law as payment of debt has some moral and religious obligation. Hindu Law Debts can be categorized in the following ways:

#### **(i) Avyavaharika or Immoral Debt:**

'Avyavaharika debt' means a debt which the sons are not to pay. The extent of the sons' liability to disburse their father's debts is based upon the text of Brihaspati which has been translated by Colebrooke as a debt for a reason repugnant to good morals. Brihaspati says: "The sons are not compellable to pay sums due by their father for spirituous liquor, for loss at play, for promises made without consideration or under the influence of lust or wrath, or sums for which he is a Surety or for a fine or a toll or the balance of either". Manu says "The sons shall not be obliged to pay the sums for which the father is a Surety or idly promised or lost at play or due for spirituous liquor or what remains unpaid of a fine and a tax or a duty". Yajnavalkya says "If the father is dead or gone to a distant place or laid up with an incurable disease, his sons and grandsons shall pay his debts, but they shall not pay a debt contracted for wine, lust or gambling or due on account of the unpaid portion of a fine, or toll on account of an idle promise". Narada says "The sons of a debtor-father shall not pay the money due by a surety, a fee due to the parents of a bride, debts contracted for spirituous liquor or gambling and a fine" (Badaruddin, 2003, p.183). In Hemraj v. Khem Chand 1943 case, the Privy Council accepted the meaning given by Colebrooke to the word Avyavaharika saying that it makes the nearest approach

to the true concept of the term and may well be taken to express its correct meaning. In *Girdhari Lal v. Kantoo Lal* (1874) 1 IA 321 case, the Privy Council observed that under Hindu Law it was the pious duty of sons to pay their father's debts; the ancestral property in which the sons as sons of their father acquired interests by birth was liable for the father's debts. Their Lordships further observed that this obligation was not unqualified, for the sons were not bound to pay their father's debts if the debts were *Avyavaharika*. It may be stated that if a debt is not tainted with immorality or illegality, it will be mandatory and binding on the sons. In *Babulal v. Chandrika Prasad* AIR 1967 NOC 229 (All) case, the Allahabad High Court said that the pious obligation doctrine under which sons are accountable to pay their father's debts must be *Vyavaharika* but if the debts are *Avyavaharika* and tainted with immorality or vice, the doctrine cannot be invoked. The pious obligation occurs whether the father is alive or dead. Where the father has mortgaged the family property in the capacity of *Karta* of the joint family and thus takes loan and the loan has not been taken for illegal or immoral purpose the sons cannot challenge the validity of the mortgage. Fathers have every right to mortgage the joint family property and take loan (*V. Nar Sinlu v. Ramayya*, 1979).

The following debts are recognized as immoral or *Avyavaharika* by various texts and some High Court's decisions (*Mulchand Hemraj v. Jairamdas Chiturbhuj*, 1935): (1) debts due for spirituous liquors; (2) debts due for lust; (3) Unpaid fines; (4) debts due for gambling; (5) Useless gifts or promises without consideration; (6) Unpaid tolls; (7) Promises made under the influence of lust or wrath; (8) Commercial debts; (9) Any debt which is *Avyavaharika* or alike to a debt for a reason "repugnant to good morals"; (10) Surety ship debts (*Agarwal*, 2014, pp.355-371). Where a father was found to incur debt to pay a fine for a cause repugnant to good morals, sons are not liable to pay that debt (*State of Rajasthan v. Mohan Lal*, 1971). If a father was convicted for embezzlement and sold property to make good the amount embezzled and avoid imprisonment, the son's share was not liable as the transaction was tainted with immorality (*Dhandapani v. Ashok*, 1978). Where a father by misrepresentation of facts receives an amount, it will not be the pious obligation of the son to repay it (*Badaruddin*, 2003, pp.183-186).

**(ii) Antecedent Debt:**

It means the old precedent debt. It is in fact as well as in time. Lord Dunedin defines antecedent debt as “as antecedent in facts as well as in time” that is not a portion of transaction impeached. Two essentials are necessary, the debt must be -(a) prior in fact and (b) prior in time (Agarwal, 2014, p. 362).

**(iii) Suretyship Debts of Father:**

When Father contracted for payment of debt as surety is called surety ship debt. In other words, it can be said that it is such a debt of the father arising out of a surety bond executed by him to pay a third person (Agarwal, 2014, p. 362).

**(B) ‘Liability’:**

It means ‘the quality or state of being legally obligated or accountable; legal responsibility to another or society, enforceable by civil remedy or criminal punishment’ (Garner, 2011, p. 997). Regarding liability to debt, the phrase accrued liability used in Black’s Law Dictionary that means a debt or obligation that is properly chargeable in a given accounting period but that is not yet paid. In Hindu Law, liability to pay the debts has varying significance. According to Maine the liabilities of a Hindu to pay debts contracted by another arises from three different sources (a) religious –it is a duty of and obligations to Sons and grandsons only discharging the debtor from the sin of his debts, (b) Moral –it is the duty of discharging the debt contracted by one whose assets have passed into the hands of another (c) legal- an agent’s duty to pay debt of another who appoints him. In Hindu jurisprudence, payment of debts emphasizes on legal, moral, and above all religious obligation as it is thought necessary for the salvation of debtor’s soul after death (Agarwal, 2014, pp. 356-358).

**(C) ‘Pious Obligation’ Doctrine :**

It is the religious obligation to pay the debts of father, grandfather or a great-grandfather by a son, son’s son or a son’s son’s son in order to save his deceased father’s soul from falling into hell. This is known in Hindu law as the doctrine of pious obligation; this doctrine is a unique doctrine of Hindu law. Under traditional Hindu law when father contracted a debt , has not been reimbursed before death, it must be returned to his sons and they should pay it back . Vrihaspati says that if the father is not alive,

his sons must pay off the debts acquired by him. Father's debt must be paid off earlier than the man's own debt; and also before these two cases, the paternal grandfather's debt must still be paid. The debts of the father on evidence must be paid by the sons, as if they were their own; the debts of the grandfather must be paid without interest by the son of his son, but the son of a grandson does not need to pay at all. If the sons are separate, they shall repay as per shares; if not then repay either in general, or the manager shall reimburse it for the remainder. If it is the senior member of the family or the younger member who, in the absence of the eldest, or because of his incapacity, has undertaken to handle the family shall pay the debt. According to Hindu law writers it is the religious obligation of the son, grandson and great-grandson of a deceased Hindu to pay off the debts of their deceased ancestor and relieve him of the torments of hell consequent of non-payment. Mukherjea J. delivering the judgment of the Supreme Court of India in *Sidheshwar v. Bhubaneshwar Prashad* 1954, observed that the doctrine of pious obligation has its origin in the conversation of Smriti writers who regard non-payment of debt as a positive, the evil consequences of which follow the undischarged debtor even in the afterworld. It is for the purpose of rescuing the father from his torments in the next world that all obligations are imposed upon the sons to pay their father's debts. There exists a religious duty for a son, grandson and great-grandson to pay the debt of the father, grandfather and great-grandfather as the case may be. In Hindu law a son without keeping his self-interest in mind must release his father from debt sincerely so that the father may not go to hell (Agarwala, 2014, pp. 355-356). It has now been judicially decided that the liability of a son, grandson or great-grandson to pay is co-extensive to the extent to which they have joint family property in their hands (*Peda v. Sreenivasa*, 1918; *Jamboo Rao v. Annappa*, 1914). They are not liable personally; their liability is limited to the extent the paternal property came into their hands. Under traditional Hindu law, the liability of sons, grandsons and great-grand sons to pay ancestral debts is not uniform. So, on was liable to pay the principal and interest, the grandson only the principal but not interest and the great-grandson was liable not to pay at all. This obligation to pay the ancestral debt is known as the pious obligation to pay the ancestral debt. The doctrine of pious obligation is the logical corollary to the son's birthright. It is a son's pious obligation to discharge his father's debts out of his ancestral property, provided the debts are not *Avyavahrika*. The son gets exonerated from the obligation to discharge debts of his father from the family assets only if the debt was one not tainted



with immorality or illegality, the “debt” is primarily a liquidated money obligation arising out of contract and recoverable by suit. In Hindu law in a joint family the father, grandfather, and great-grandfather as Karta of the family have authority to contract debts for ‘necessity’ or ‘benefits of the family’; this doctrine is not recognized under the Dayabhaga School (Diwan, 2007, p. 328). However, a father is not under any religious obligation to pay the debts of his son unless the son has left him his self-acquired property. Unless the debts are contracted by the wife under his express authority or under such pressing circumstances from which his implied authority could be inferred, a husband is not liable for his wife's debts. Likewise, a widow is not obliged to settle her husband's debts unless she has succeeded as his successor or agreed to pay them or was a joint contractor (Gandhi, 2016, pp. 117-118). It is to be remembered that where debts are incurred by the father after partition or separation between himself and his sons, sons do not incur any liability to pay the debts (Pannalal v. Narayani , 1952). If however the debts in question are pre-partition debts the sons would be liable even after partition. Where a debt is incurred by the father as the manager of the joint Hindu family, the liability of the son would be at par with that of any other coparcener who would be compelled to pay it. In such a case, the son would be liable to the extent of his interest in the coparcenary property.

Under Hindu law one who inherits the property of another must pay the debts incurred by such person. Consequently, a Hindu heir is responsible to pay the debts of the deceased as per the shares inherited from him. Whether the debts were incurred properly or for an unlawful or immoral purpose, such liability of an heir is limited to the extent or value of the property inherited by him (Karimmudin v. Govind, 1909). In such cases the heir is not personally liable.

Where, however, the heir spent the property without payment of the debt, the creditor could not follow the property but he would hold the heir personally liable. It must be noted that the heir is neither an executor nor an administrator of the property inherited by him. He is therefore not liable to distribute proportionately the property amongst the creditors of the deceased; he is not bound to do so. In such a situation he may be required to prove that the property inherited by him is not sufficient to pay the debts (Rathjammal v. Sundaram, 1933). Under the Hindu Succession Act, 1956, all those people who get property of the deceased either by way of testamentary succession or intestate succession are

included under the term 'heir' (Rathjnammal v. Sundaram, 1933). However, under the statutory law, if donor's whole property is gifted, the donee remains personally liable for donor's all debts due and liabilities at the time of the gift to the extent of the property involved therein (Section 128 of the Transfer of Property Act 1882). Under Hindu law it is the legal duty of every coparcener to pay his or her debts; a creditor who has obtained a decree against a debtor-coparcener can get such a coparcener's divided interest attached and sold in execution of the decree. When the creditor fails to execute his decree during the lifetime of such a coparcener, then he will fail to receive any remedy, because such a coparcener's share on his death will pass to other coparceners by survivorship (Debnath, 1982). However, if such a share is attached by the creditor in debtor's lifetime, after his death it may be sold. The quality of such a debt will not be taken into consideration; it may be incurred for a moral or for an immoral purpose.

#### **(D) Rules of Damdupat:**

*Damdupat* is an important rule of Hindu law. The reason for the rule is that Hindu law does not recognize any law of limitation that means every recoverable loan can be recovered irrespective of time (Agarwal, 2014 p. 355). This rule refers to the fact that the recoverable amount of interest cannot be exceeded the principal at any time (Dhondu v. Narayana, 1863). The law of limitation for the recovery of debts was not recognized in ancient Hindu law. Every lawful debt was binding and recoverable from the debtor irrespective of the period of time. So, it was urgent to impose a limit on the amount of interest recoverable by the creditor and such a restriction has been imposed by the canon of *damdupat* (Gajadhar v. Jagannath, 1924).

### **Discussion and Analysis**

#### **Liability of Payments of Debts under Hindu Law:**

Debts under the Hindu law may be treated under two broad heads, namely, Mitakshara law of debts and Dayabhaga law of debts. Laws relating to debts and their repayment under Mitakshara law are rather complicated; while those under Dayabhaga law are simpler.

### **(A) Liability under the Mitakshara Law:**

A Hindu male may make debt contract for his own private purposes or joint family. Under the Mitakshara law the liability of an heir other than a son or grandson in paying deceased's debts is limited to the extent of the assets inherited by him from the deceased (Agarwal, 2014, pp.355- 371). The deceased's heir is not personally liable. But where the heir is a son or a grandson of the deceased he is liable to pay the debts of his deceased father or grandfather, even if no assets have been inherited by him; the son and grandson are liable to pay the debts of the deceased out of their own property, provided the debts are not illegal or immoral; in execution of a decree of personal debts, the undivided interest of a coparcener in the coparcenary property may be attached in his lifetime. But it cannot be attached after his death for it then passes to the other coparceners by survivorship (Bhattacharjee, 1994). In paying the debts of their ancestor, the liability of the son, son's son and son's son's son is not a personal one; it is limited to their interest in the joint family property. The pious obligation of sons to pay father's debts lasts only so long as the liability of the father subsists . The liability of the sons to pay the father's debts exists whether the father is dead or alive. Sons are not, however, liable for a debt contracted by the father after partition; they are liable after partition for a debt contracted by the father before partition. Sons or grandsons are bound to pay their father or grandfather's debts with interest; the great-grandsons are also bound to pay the great-grandfather's debts and their liability is co-extensive with that of sons and grandsons. The debts must not, however, be tainted with immorality or illegality (Routh, 2008, pp. 205-208).

#### **(a) Liability of Debts and the Doctrine of Pious Obligation:**

Under Hindu law sons, grandsons and great-grandsons are under a religious obligation to pay off their ancestor's debts out of their ancestral property provided the debts are not *Avyavahrika*, i.e, they are not tainted with immorality or illegality. As to the origin of this doctrine the Indian Supreme Court observed in (*Sidheshwar Mukherjee v. Bhubneshwar Prasad*, 1954) the doctrine of pious obligation originated from an obligation of religion and piety for the sons to save their father from the sin of non-payment of debts incurred during his lifetime. As developed in the original Sastric texts, this doctrine has been changed by judicial decisions over time. The duty of sons, including grandsons and great-grandsons, is not a personal obligation under the law, as it

stands now, regardless of the receipt of any assets. Such a liability of a son limited to the proportion to the properties, share and interests in the joint family property. The obligation exists in all the situations of either the sons are major or minor, and the father is alive or dead provided that the debts contracted by the father are not illegal or immoral. Recently this view has been reiterated by the Chennai High Court in *Shanmugha Udayar v. Shivanandam*, 1994 case. The basis of this doctrine is religious, and its only object is to confer spiritual benefit on the father. It is based on the pious obligation of sons to see their father's debts paid and his soul saved from the fire of hell. It must be remembered that the father's debts must be *vyavaharika* and not *Avyavaharika*. The Hindu Succession Act, 1956 cannot be deemed to have abrogated this doctrine in India (*Modi Nathubhai v. Chhotubhai Manibhai*, 1962), but after amendment in 2005 abrogated in India. This liability limited to the sons' interests in the coparcenary property and not personal. The argument that the father contracted the debts for his personal benefit and not for family purpose or that the father was not manager of the joint family when the debts were incurred cannot affect the pious obligation of sons. This liability is, however, limited to sons who were joint with the father, but separated sons are not liable for debts incurred by the father after separation or partition. This liability will subsist so long as the father's liability subsists and this liability exists even during the lifetime of the father. The liability of grandsons and great-grandsons is also like sons. The sons' liability is not joint or several with any ancestor. The creditor may sue the father and sons and enforce the decree against the entire coparcenary property or may sue the father alone and execute the decree against the whole family property which might include the interests of sons. Where the father is dead the creditor will sue the sons alone; where the father is alive the sons alone cannot be sued. The cause of action in the case of father's debts begins to run both against the father and the sons from the time when the debts become due and payable. Limitation period against the father is 3 years in the case of unsecured debts and 12 years in the case of secured debts. Hindu law does not recognize any time limit for the recovery of debts. However, a Hindu is not bound to pay a time-barred debt after the passing of the Limitation Act (*Nagarmal v. Bajranglal*, 1950). But where a promissory note has been made the father in respect of time-barred debt, it is valid against the father as well as the son. Time-barred debts are not immoral debts under Hindu law (*Jagdison v. Saraswathi Ammal*, 1962). It must be remembered that after partition of the joint family property the father has no authority to renew pre-partition debts so as

to make the sons liable (Badaruddin, 2003, pp.171-178). Where a Hindu father as the manager of a joint Hindu family incurs a debt for legitimate family purposes the debt will be binding on his sons, grandsons and great-grandsons to the extent of their coparcenary interests in the family property (Haque, 2014). Thus, Hindu law imposes an obligation or duty upon the sons, grandsons and great-grandsons to pay out of the family property the debts. This obligation is known in Hindu law as pious obligation, and the doctrine which establishes it is called the doctrine of pious obligation. The debts should, however, be not tainted with immorality or illegality or even barred by the law of limitation. The sons, grandsons and great grandsons are liable to pay these debts even though they are not incurred for a legal necessity or for the interest of the estate (*Sita Ram v. Radha Bai*, 1968). It is a peculiar family law doctrine in Hindu law. The religious obligation of Hindu sons originates from an obligation of religion and piety for the sons to protect their father from the sin of non-payment of debts incurred by him. This doctrine is not merely religious now; it has got legal recognition even. In *Luhar Amrit v. Doshi* 1963 case, the Supreme Court of India enunciated the principles thus: "The sons who challenge the alienations made by the father have to prove not only that the antecedent debts were immoral but also that the purchasers had noticed that they were such". It was pointed out in this case that the doctrine of pious obligation which was based on Sastric texts had been revised in some ways by subsequent judicial rulings. Under the present law, the obligation of the sons is not a personal obligation, confined to the receipt of any assets and interests in the joint family property (Agarwala, pp. 356-359) and it exists irrespective of sons majority or minority or the father's dead or alive, provided that the contracted debts are not immoral or irreligious.(Tiwariand Sharma, Legal Service India.com).

#### **(b) Liability of Father's debts:**

Liability for the payment of father's debts, as stated above where the father incurs debts as manager of the joint Hindu family, the liability of sons is at par with any other coparcener who is compelled to pay it. In such a case sons will be liable to the extent of their interests in the coparcenary property. But where the debts are incurred for his personal benefit, the sons are liable provided the debts are not tainted with illegality or immorality (*Sita Ram v. Radhabai*, 1968). It must be remembered that this liability to pay father's debts is based on the doctrine of pious obligation, the religious obligation of sons to pay their

father's debts and through that payment save the soul of the deceased father from hell (Tiwari and Sharma, LegalService.Com). However, the debts must not be *Avyavaharika*: Since the obligation of the son is pious the debt must not be illegal or immoral i.e., *avyavahrika*.

The sons are liable for the father's pre-partition debts and not post-partition debts provided the debts are not taken for an immoral or illegal purpose or as Derrett has expressed private, untainted, pre-partition debts etc (Darrett, 1963, p.274) Now what debts are *Avyavahrika*? Mayne on the basis of the Sastriic texts has listed the payment of the following debts as unlawful and sons need not pay them: (i) debts due for spirituous liquor, (ii) debts due for lust, (iii) debts due for gambling, (iv) unpaid fines, (v) unpaid tolls, (vi) useless gifts or promises without consideration, (vii) promises made under the influence of lust or wrath, (viii) commercial debts, (ix) Suretyship debts, and (x) debts which are not *Avyavaharika* (Maine, 2014, pp. 913-920). Colebrooke has translated *Davyavahrika* as debts for a cause repugnant to good morals. Broadly speaking debts that are taken for "illegal or immoral purposes" are termed *Avyavahrika* debts.

All commercial debts are payable unless they are the consequence of highly speculative and hazardous enterprises or of enterprises relating to gambling, smuggling, and the like. Similarly, sons are liable for the Surety ship debts of the father where he stood surety for payment of money or for delivery of the debtor's assets or goods (*Ramprasad v. Reven*, 1970). The grandsons are not liable for the suretyship debt of the grandfather (*Radhakrishna v. Union of India*, 1959). Sons are also liable for the arrears of taxes levied on father's personal property (*Dwarka v. Krishan*, 1955). In *Hem Raj v. Khem Chand* (1943) 71 IA 171 the Privy Council observed that if the debt was at its inception not tarnished or tainted with immorality or illegality, it was binding on the sons. It is thus necessary to make out a connection between the debt and the taint at the earliest opportunity. The burden of proof that the debt is tainted is on the sons (*Sita v Radha*, 1968); the sons may also show that the creditors had the notice or knowledge that the debt was tainted and the court may take it into consideration (*Luhar Amrit v. Doshi Jayant*, 1963).

The son's liability extends to the extent of the interest received by the son in the coparcenary property. This liability exists during the lifetime of the father and it continues so long as the father is liable. Thus a son will not be liable for the father's time barred

debts. The question of a son's liability and its nature and extent were raised before the Mumbai High Court in *Mulchand v. Jairam* AIR 1935 Bom 287 case; it was held that if the debt was incurred by the father before the partition of coparcenary property, the liability of the son remained unaffected even after partition. Where a partition is fake, colorable or mala fide the rights of the creditors are not affected. If, however, the partition is bona-fide, the rights of the creditors are affected. In *Pannalal v. Narayani* AIR 1952 SC 170 case, it was held that if a father and his son had made an arrangement about debt and if the arrangement was reasonable and proper, the creditors could not object to it. But if no such arrangement was made, the liability of the son would stand. Where a father is sued after partition, the decree in such a suit cannot be executed against the son; under such circumstances, a separate suit is to be filed against the son. If a father is sued after partition for a pre-partition debt and the father dies pending the suit, as a consequence of which the separated son is brought on record and the suit is decreed, the son's liability would be fixed in the execution proceedings. The son's liability would be in proportion to the property obtained by him as a result of partition and no separate suit against the son is required to be filed for this purpose.

### **(c) Liability of Avyavaharika Debt:**

As stated above Colebrooke has defined it as a liability incurred for purposes repugnant to good morals. According to him debts that are for "causes repugnant to good morals" are avyavaharika; this observation has been approved by the Supreme Court of India in *Jakati v. Borkar* AIR 1959 SC 282 case. The debts taken for immoral purpose i.e., for prostitution, for keeping a concubine, for expenses of the marriage of concubine's granddaughter, for giving bribe a Hindu woman so that she takes one of her sons in adoption or for gambling, are treated as immoral debts. All commercial debts are payable unless they are the outcome of highly speculative and hazardous enterprises or of enterprises relating to gambling, smuggling, and the like. Sons are also liable for the arrears of taxes levied on father's personal property (*Dwarka v. Krishan* AIR 1955 All 675). At their inception, debts causing from highly tortious acts which are tainted with an evil purpose are also avyavaharika, but decretal debts rising out of father's civil liability are not avyavaharika. Sons are not bound to pay father's time-barred debts in India (The Indian Limitation Act, 1963). A question may arise at what stage a debt becomes avyavaharika. In *Ramasubramania v. Sivakami* ILR (1925) Mad

841Rao J. of the Madras High Court formulated the following two propositions: (a) Even if the debt is not immoral at the inception, the son will not be exempted for subsequent dishonesty of the father, and (b)The debt is not stamped as immoral by every impropriety or every lapse of right conduct. The conduct of the father must be "utterly repugnant to good morals, or is grossly unjust or flagrantly dishonest".

In *Hem Raj v. Khem Chand* ILR (1943) 71 IA 171 case, the Privy Council observed, "It is binding on the sons if the debt was not tarnished or tainted with immorality or illegality at the inception." Thus it is necessary to make out a connection between the debt and the taint at the earliest opportunity. The onus of proof is on the sons that the debt is tainted. (*Sita v. Radha*, 1968).

#### **(d) Liability of Son as to Surety ship Debts of Father:**

Sons are responsible for the surety ship of the debts of his father where he stood surety for delivery of the debtor's assets or goods for payment of money (*Ramprasad v. Reven*, 1970). The grandsons are not liable for the Suretyship debt of the grandfather (*Radha Krishna v. Union of India*, 1959). According to Vrihaspati, there are four diverse kinds of Sureties: (i) for appearances; (ii) for confidence or honesty; (iii) for payment of money lent; and (iv)for delivery of goods or articles of the debtor (*Gandhi*, 2016, pp. 132). The Surety himself is liable in all these cases. In so far as the first two kinds of Sureties are concerned the sons may not be liable, but in the latter two they have been expressly declared to be liable (*Daljit Singh v. Harkishan Lal Sah*, 1940). As regards the liability of grandsons the views of Bombay and Allahabad High Courts are different; the former considers the grandsons are not liable unless the grandfather received consideration for undertaking the Suretyship (*Narayan v. Venkatacharya*, 1904), while the latter considered them liable (*Dwarkadas v. Kishandas* , 1955).

#### **(e) Liability of Son on Father's Right to Alienation of Coparcenary Property:**

In *Girdhari Lall v. Kantoo Lall* (1874) IA 321 case, the Privy Council observed that the father can transfer the whole of the coparcenary property for the payment of his personal debts but the debts must be antecedent and not contracted for any immoral or illegal purpose. Such alienations bind the sons whether they consented or not or whether the manager of the joint family was



or was not or the father whether the joint family was or was not composed of only that father and sons or any other persons. This right of the father is an additional one to his ordinary right as a manager to charge or alienate the property in case of legal necessity, but here the question of legal necessity is not to be considered. A father can alienate the joint family property for discharging his antecedent debt; he is privileged to do it. But a manager of the family who is not the father has no such right (*Brij Narain v. Mangla Prasad*, 1924). In *Brij Narain's* case the Judicial Committee summarized the law in this regard and following propositions were laid down (1) Except for purposes of necessity, the managing member of joint undivided property cannot burden the estate quo manager or alienate. (2) If other members of the family are the sons, the father by incurring debt in execution proceedings lay the estate open to be taken upon a decree for payment of that debt as far as there is no immoral purpose. (3) If he purports to owe the estate by a mortgage, the estate will not be bound until the mortgage discharges the antecedent debt. (4) An antecedent debt means, in fact as well as in time i.e. the debt must be completely independent of, and not part of, the transaction impeached. (5) There is no provision that this outcome is influenced by the question whether or not the father who contracted the debt or burdened the estate is alive or dead.

#### **(f) Liability of Antecedent Debt:**

In *Sahu Ram v. Bhup Singh* AIR 1917 PC 61 case, their Lordships of the Privy Council spoke of the doctrine of antecedent debt as having "arisen from the necessity of protecting the rights of third persons". In *Brij Narain's* case the doctrine is described as a part of the doctrine of pious obligation. This latter view must be taken to have superseded the former view (Mulla, 2011, p.360). To be an antecedent debt it should be (i) prior in time, and (ii) prior in fact. The antecedent debt for which alienation of the joint family is made must be antecedent in time as well as in fact. In other words, the debt must be truly independent and not part of the transaction impeached (*Dev Kishan v. Ram kishan*, 2002). The significance of antecedent debt lies in the fact that the father of a Hindu joint family has been given the right to sell or mortgage the joint family property including the son's interest therein to discharge antecedent debt, that is a debt that has been contracted prior to such sale or alienation both in point of fact and time. In *Narayan Prabhu v. Janardhan Mallan* AIR 1974 Ker 108 case, the Kerala High Court held that, in the absence of a complaint that the debt relating to the discharge of which the

Hindu father alienated the ancestral property was vitiated by the illegality or immorality of the debt, the sale must not be challenged if it is known that the debt relating to the discharge of the father's antecedent debt was executed.

The father in a joint Hindu family can sell or mortgage the joint family property to discharge a debt contracted by him for his 'personal gain,' including the interest of his sons in that property, but, as stated above, such transfer must satisfy the following two conditions:(i) The debt must be antecedent in time for which the alienation is made.(ii)The debt was not taken for any illegal or immoral purpose.

Where a suit has been instituted for partition of separate possession and setting aside the alienation made by their father is decreed in favor of sons, the sons would not be liable to pay to the alienee their share of the consideration received by the father as it would be a debt falling due to the father subsequent to the partition. In *Prasad v. Govindaswami* AIR 1982 SC 84 case, the Supreme Court of India affirming the view that the father will alienate the joint family assets to pay off his previous untainted debts, noting that he must proceed diligently and that the sale will not be valid if the consideration is insufficient. The father cannot alienate a joint family property after a suit for partition is filed. In *Virdhachalam v. Syrian Bank* Air 1964 SC 1425 case, it was observed that the debt must be truly independent and no part of the transaction which is impeached. Mortgage debt cannot be an antecedent debt where the mortgage is impeached (*Devabhaktuni v. Challa* AIR 1984 AP 45). The burden of proof of immorality or illegality lies on the sons (*Girdharee lal v. Kantoo Lal*, 1874). By showing that the father lived an extravagant and immoral life, this burden will not be discharged. If the debts have been incurred for an illegal or unethical reason, and if the father dies before the decree against him is fully satisfied, it can be executed by the attachment and selling of all the joint family property in the hands of the sons. The objection of the sons to the immorality or illegality of the debts should be decided in execution rather than in separate proceedings. If, however, the sons contend that there were really no debts, the question is to be decided in a separate suit.

#### **(g) Liability of Time- barred Debts:**

Under the Limitation Act 1908, a time barred-debt cannot be recovered, so the sons are not under any pious obligation to pay

their father's time barred-debt. But where an agreement has been made to pay a time-barred debt, the agreement is valid. In the case of renewed time-barred debt, the whole of the joint family property would be liable for it, including the son's interest. As the Hindu law does not recognize any time limit for recovery of debts, the time-barred debt, is not *Avyavahrika* or immoral; it rather constitutes a valid antecedent debt within the meaning of Hindu law (Rakshit, 2016, p.384). Thus, if a father alienates in consideration of such a time-barred debt, the same will be binding on the sons (*Jagdison v. Saraswati Ammal*, 1962). It is to be noted that after the partition of the property, the father has no authority to renew pre-partition debts so as to make his sons liable (*Venggruta v. Shri Venkata Narainmaha*, 1965).

#### **(h) Liability in respect of Creditor's Suit for Debts Contracted by Father:**

The Creditor may bring a suit in respect of the personal debts of the father to recover the amount. The suit may however be brought either in the lifetime of the father or after his death. The suit can be filed within the father's life period. It can be filed against the father alone or against the father and the sons jointly. The entire joint family property, including the interests of the sons, may be attached and sold while executing the decree. In *Krishna v. Sami* AIR 1940 Mad 544 case, it was held that the creditor is not bound to make the sons a party to the suit against the father. He can sue the father alone and obtain a decree against him and he can execute the decree by attaching and selling all the interests of the father as well as the sons in joint family property, and the sale will bind the sons even if they were not made parties to the lawsuit, or even if they were first made parties, unless the father's debts were for immoral or illegal purposes. But a son alone cannot be sued during the father's lifetime since his liability is co-existent with that of the father (*Muni swamy v. Rama murthi*, 1970).

#### **(i) Liability of Debts and the Rule of *Damdapat*:**

The Limitation Act 1908 is not applicable to the rule of *damdapat*. As stated in this Act the period of limitation is three years for a suit for money lent from the date of the loan. Therefore, a creditor can file a suit for the loan and arrears of interest for three years irrespective to the amount. But he cannot recover interest exceeding the amount of the principal at any one time where the

rule of *damdupat* applies. (Mulla, 2011, p. 675). The rule of *damdupat* applies in the State of Bombay, the Town of Calcutta and Santhal Parganas, Gujrat, Berar, part of Mysore, and part of Madhya Pradesh. Except the town of Calcutta in no other part of Bengal the rule of *damdupat* applies. According to the Calcutta High Court, the rule applies only where both the original contracting parties are Hindus. But according to Bombay High Court, all that is necessary for the application of the rule is that the original debtor should be a Hindu. The rule does not apply if the original debtor was a Muslim, though the Creditor might be a Hindu. The rule does not also apply if the original debtor was a Hindu, though the creditor might be a Muslim. When the original debtor is a Hindu and the interest is allowed to accumulate so that it exceeds the principal, and the debt is then transferred to a Muslim, the rule of *damdupat* will apply so long as the debtor was a Hindu, but it will cease to operate from the date the debt was assigned to the Muslim. The rule applies not only to unsecured loans but also to loans secured by a pledge of movable property and those secured by a mortgage of immovable property. Madras High Court held that mortgages executed after the enforcement of the Transfer of Property Act will not be covered by the rule of *damdupat*. But the High Courts of Bombay, Calcutta, and Nagpur did not agree with this judgment (Routh, 2008, pp.209-210).

## **B. Debts under the Dayabhaga Law**

The Dayabhaga law of debts is very simple compared to the Mitakshara law; under this law, no question as to the special liability of sons and grandsons arises as it does under the Mitakshara law. The reason behind that is under the Dayabhaga law, as they do under the Mitakshara rule, a son, grandson, or great-grandson does not possess by birth any interest in the ancestral property or in an ancestor's self-acquired property. Again, each coparcener takes a given share in the coparcenary property under the Dayabhaga law, which he may deal with at his pleasure and which will not pass the surviving coparceners but to his heirs when he dies. The property of a Hindu passes to his descendants under the Dayabhaga rule by inheritance and not by survivorship. Under the Dayabhaga law, the whole property in the hands of father, grandfather and great-grandfather is liable for their debts and can be attached and sold during their lifetime. After their death, a creditor can follow the property in whatever hands it may be, as according to this law the nature of the debt

does not affect the creditor's right in any way [Gandhi, 2016, pp. 134-135]. Moral or legal debts are as much binding upon the debtor and his legal representatives as illegal or immoral debts. As under the Dayabhaga law there is no survivorship, the right of a creditor is not affected in any way. Under this law, the manager can contract debts for business and family purposes and such debts bind all members of the family (Routh, 2008, p. 209).

When a loan is taken by a Hindu under Dayabhaga law for his own private purposes the liability to pay it will be determined according to the following rules: (1) The separate properties of a Hindu are accountable for paying his debts both in his lifetime and after his death. (2) Under the law of Dayabhaga, each coparcener takes a fixed interest in the common family property, which passes on to his successive heirs upon his death and not by survivorship. Such an interest is liable for the payment of his debts, not only in his life but also after his death. (3) Since, under the rule of Dayabhaga, no interest in the ancestral property is acquired by birth by sons, grandsons and great-grandsons, the father may sell or mortgage all the ancestral property in his hands for the payment of his debts, whatever the nature of his debts may be. (4) If a Hindu ruled by Dayabhaga dies leaving debts, his heirs are obliged to pay the debts of the property left by the deceased, but they are not directly liable for the debts of the deceased, even if the sons, grandsons or great-grandchildren of the deceased are the heirs. (Abdul Rahman v. Gajendralal, 1938).

#### **(a) Liability of Ancestral Debts under the Dayabhaga Law:**

Under Mitakshara laws, ancestral debts have not been divided into Vyavaharika debts and Aavyavaharika debts. The Dayabhaga debt law is very clear, and under that law, no question will arise as to the special responsibility like Mitakshara Law. The explanation is that under the Dayabhaga law sons do not gain any interest in the ancestral property by birth unlike Mitakshara law. In addition, each coparcener gets a given share in the coparcenary property under the Dayabhaga rule, which he can contend with at his pleasure and which passes after his death to his heirs and not to the remaining coparceners. On the death of a Hindu regulated by the Dayabhaga law, his separate property and his undivided interest in coparcenary property pass to his heirs, and they turn into the possessions of the deceased in their possession. Therefore, if one deceases leaving debts, the successors are obliged not only to pay the debts on the separate property left by the departed but also on the coparcenary property of his undivid-

ed interest. The heirs, however, are not directly responsible, even though they are the sons, grandsons, or great-grandsons of the departed, for the debts of the deceased (Mulla, 2011, p. 401).

### **Comparison between Mitakshara and Dayabhaga Law of Liability of Debts**

The Dayabhaga law on liability of debts is simpler than the Mitakshara law of liability of debts. The doctrine of pious obligation is not recognized in Dayabhaga law as it is in the Mitakshara law. There is no special liability of the sons and grandsons under the Dayabhaga law as it is in the Mitakshara law- Causes are- firstly, under Dayabhaga law each member takes a defined share in the property which is not the case of the Mitakshara law; secondly, under the Dayabhaga law the property passes to the heirs by succession and the coparceners do not take any interest by survivorship as it is in the Mitakshara law.

The rule says that no creditor is entitled at time to recover interest more than the amount of the principal. It does not say that a creditor shall not, in any case, be entitled to interest exceeding the principal. The result is that part payment of interest made before the suit, cannot be added to the amount of interest claimed in the suit so as to attract the application of the rule of damdupat. And no constraint on its recovery was recognized beyond this that at no time the amount of interest recoverable could not exceed the principal. Where a part of the loan has been paid, the principal for the purpose of the rule of damdupat is the balance of principal remaining due at the time when the interest claimed in the suit accrued. But this rule does not forbid capitalization of interest in arrears by a subsequent fresh agreement. Thus where a fresh bond is executed for the aggregate amount of the principal and interest, the principal for purpose of the rule is the amount of the fresh bond. The rule does not apply after a suit is instituted. The rule ceases to operate on the institution of a suit to recover the loan. In *Hukum Chand v. Fulchand* AIR 1965 SC 1962 Indian Supreme Court held that the rule of damdupat was developed both as an inducement to the debtor to pay and as a warning to the creditor to take useful steps for realizing the debt from the borrower within rational time.

## **Present Scenario Relating to Liability of Debts in India and Bangladesh**

Bangladeshi Hindus governed by Dayabhaga law follow the traditional rules of debts and its liability. It is not like the special responsibility of Mitakshara law and there is no significant enactments as like India. This religious obligation to pay father's debts has been abolished in India by passing the Hindu Succession (Amendment) Act, 2005, though it does not abolish the right by birth given to a son. The old doctrine of pious obligation has now become a matter of academic interest; it has no more any practical utility. The liability of a Hindu son, grandson or great-grandson has now become the same as that of any other heirs under any other system of law. Now the principle is that a Hindu heir is liable to pay the debts of the deceased out of the assets he has inherited from the deceased in such cases he is in no way personally liable at all, and even if the deceased was his own father. According to section 6 (4) of the Indian Hindu Succession (Amendment) Act, 2005, no proceeding in any court can be started against a son, grandson, or great-grandson for the recovery of any debt unpaid from his father, grandfather or great-grandfather solely on the view of the pious obligation under the Hindu law and no creditor can file suit against them on the ground of pious obligation. But, any debt contracted or any alienation already made in respect of any such debt and any such right prior to the commencing of the Indian Hindu Succession (Amendment) Act, 2005 shall not be affected by this amendment (Gandhi, 2016, p.135).

## **Concluding Remarks and Recommendations**

Hindus are the 2<sup>nd</sup> largest population affiliation in Bangladesh, 8.5 percent population are Hindus as per 2011 census, up to 2015, the estimated number is 17 million as per the report of Bangladesh Bureau of Statistics. Here the doctrine of pious obligation in payment of ancestral debts did not apply to the Hindus of Bangladesh. Since the Hindus of Bangladesh are governed by the Dayabhaga law and since sons, grandsons and great-grandsons under this law do not acquire by birth any interest in ancestral property as they do under the Mitakshara law this doctrine was never in use in the Hindus of Bangladesh. The amended law of debts with regard to the payment of ancestral debts is rather a vindication of the laws of Bangladesh. But as regards the overall law of succession as introduced by the Indian Hindu Succession (Amendment) Act, 2005 may be introduced in Bangladesh

through new legislation. If people empowerment becomes a national policy of the government of Bangladesh, if equal rights are to be provided to irrespective of religion, race, or caste and if the equal opportunity of all is to be ensured, it will be wise for the government of Bangladesh to amend its Hindu law of succession in line with the present amended law of India and thus ensure a specific and definite provisions of Hindu debt law . Dr. Shah Alam Said “Hindu law has not experienced any change in Bangladesh is contrary to the nature of historical development of this law” (Alam, 2004, p. 32). No one can deny the fact that had India not been divided in 1947 into India and Pakistan, The Hindus of Bangladesh would have to accept a similar law which the Indian government passed in the mid-fifties (The Hindu Succession Act 1956) of the twentieth century on the recommendations of the famous Gour Committee. Bangladesh has not made so mentionable reforms in the Hindu Law till date, one of the reasons is not to break its orthodox nature. Government should take initiative to reform at present-day Hindu law especially property related laws like debts and its liability and others on demand of time, and of course reforms need to be done keeping in mind the Hindu traditional culture, religious spirit etc. As Menski rightly observed (Menski, 2003, p. 3) “Despite its numerous traditional and modern elements, Hindu Law must be seen as the postmodern phenomenon, displaying its internal dynamism and perennial capacity for flexibility and realignment in conjunction with the societies to and in which it applies”.

## References

Agarwal, R. K. (2014) *Hindu Law* 24<sup>th</sup> edn 2013 (reprinted on 2014), Central Law Agency, India, pp.355-371.

Alam, M. S. (2004) “Review of Hindu Personal Laws in Bangladesh: Search for Reforms”, *Bangladesh Journal of Law* (1 &2) June and December, 2004, pp. 15-52, retrieved, 10<sup>th</sup> July 2019, <https://www.biliabd.org> > Dr. M. Shah Alam. pdf.

Andrew Jackson (1767 – 1845) the seventh President of the United States from 1829 to 1837., “When you get in debt you become a slave”, retrieved, 1<sup>st</sup> April 2020, <https://observer-id.com/when-you-get-in-debt-you-become-a-slave-andrew-jackson/>



Anthony Swamy v. M. R. ChinnaSwamy [AIR 1970 SC 223]

Abdul Rahman v. Gajendralal [(1938) 1 Cal 132]

Badaruddin, M. (2003) *Hindu Ain* (Bangla), 3<sup>rd</sup> ed., Mokta Law Book House, Nilkhet, Dhaka, Bangladesh, pp.171-186.

Bhattacharjee, A. M. (1994) *Hindu Law and the Constitution*, 2<sup>nd</sup> ed., Eastern Law House Pvt Ltd, Calcutta.

Babulal v. Chandrika Prasad [AIR 1967 NOC 229 (All)]

Brij Narain v. Mangla Prasad [AIR 1924 PC50]

Dev Kishan v. Ram Kishan [AIR 2002 Raj 370]

Dwarka v. Krishan [AIR 1955 All 675]

Dwarkadas v. Kishandas [AIR 1955 All67]

Devabhaktuni v. Challa [AIR 1984 AP 45]

Dhandapani v. Ashok [(1978) MLJ 773]

Daljit Singh v. Harkishan Lal Sah [AIR 1940 All 116]

Dhondu v. Narayana [ (1863) 1 Bom HC 47]

Darrett, J. D. M. (1963) *Introduction to Modern Hindu Law*, Oxford University Press (Indian Branch) Bombay, p. 274.

Danish Proverb, viewed 20 July 2020, retrieved, 11th February 2020, <https://media.allauthor.com/images/quotes/gif/danish-proverbs-quote-promises-make-debt-and-debt-makes.gif>

Diwan, P. (2007) *Modern Hindu Law*, 8<sup>th</sup> ed., Alahabad Law Book Agency, p. 328.

Debnath, D. C. (1982) *Hindu Ain* (Bangla), 1<sup>st</sup> ed., Nilkhet, Dhaka.

English Forums, 'Debt: Plural Or Singular ?' *English*

*Forums.com* , retrieved, 23<sup>rd</sup> February 2020, <https://www.englishforums.com/English/DebtPluralOrSingular/bdcxz-p/post.htm>

Gandhi , B. M. (2016) *Hindu Law*, 4<sup>th</sup> ed. by Samuel Malik, 2016, Central Law Agency, Alahabad-2, India, pp.117-135.

Garner, B. (2011) *Black's Law Dictionary*, Texas , USA, p.462.

Girdharee Lall v. Kantoo Lall [(1874) 1 IA 321]

Gajadhar v. Jagannath [AIR 1924 All 551 (FB)]

Girdhari Lall v. Kantoo Lall [(1874) IA 321]

Haque, M. A. (2014) *Hindu Law in Bangladesh: Theory and Practice*, 1<sup>st</sup> ed, Dhaka.

Hornby, A. S. (2010) *Oxford Advanced Learner's Dictionary*, 6<sup>th</sup> edn, Oxford University press, UK, p.323.

Hemraj v. Khem Chand [(1943) 71 IA 171]

Hukum Chand v. Fulchand [AIR 1965 SC 1962]

Jamboo Rao v. Annappa [ (1914) Bom 177 (FB)]

Jakati v. Borkar [AIR 1959 SC 282]

Jagdison v. Saraswathi Ammal [AIR 1962 Mad 174]

Koundal, A. (2019) „Understanding the Concept of Payment of Debts under Hindu Law“, retrieved, 10<sup>th</sup> February 2020, <https://www.shareyouressays.com/knowledge/understanding-the-concept-of-payment-of-debts-under-hindu-law/117722>

Krishna v. Sami [AIR 1940 Mad 544]

Luhar Amrit v. Doshi Jayant [AIR 1963 SC 964]

Mulla, D. F. (2011), *Principles of Hindu Law* 21<sup>st</sup> edn by Satyajeet A. Desai Lexis Nexis, India.

Maine, J. D. (2014) *Treaties on Hindu Law and Usage*, 11<sup>th</sup> edn, Bharat Law House, New Delhi, India, pp. 913-956.

Menski, W. F. (2003) *Hindu Law Beyond Traditions and Modernity*, 1<sup>st</sup> edn, published in India by Oxford University press, Oxford India Paperbacks 2008, India, p.3.

Masit Ullah v. Damodar Prasad [AIR 1924 PC 105]

Mulchand Hemraj v. Jairamdas Chaturbhuj [AIR 1935 Bom 287]

Modi Nathubhai v. Chhotubhai Manibhain [AIR 1962 Guj 68]

Nagarmal v. Bajranglal [AIR 1950 PC 15]

Mulchand Hemraj v. Jairamdas Chaturbhuj [AIR 1935 Bom 287]

Narayan v. Venkatacharya [(1904) 28 Bom 408]

Narayan Prabhu v. Janardhan Mallan [AIR 1974 Ker 108]

Osborn's Concise Law Dictionary (2000), 8<sup>th</sup> edn edited by Leslie Rutherford and Sheila Bone, Universal Law Publishing Company. Pvt. Ltd, p.18.

Pannalal v. Narayani [AIR1952 SC 170]

Routh, S. K. (2008) *Elements of Hindu Law* 2<sup>nd</sup> edn, reprinted in 2011, Comilla Law Book House, Dhaka, pp.205-210.

Rakshit, M. K.(2016) *The Principles of Hindu Law*, 8<sup>th</sup> edn, Kamrul Law Book House, Nilkhet, Dhaka, Bangladesh, pp.376-407.

Ramprasad v. Reven [AIR1970 Guj 269]

Radhakrishna v. Union of India [AIR 1959 Mad 71]

Ramasubramania v. Sivakami [ILR (1925) Mad 841]

Sidheshwar v. BhubaneshwarPrashad [(1954) SCR 177]

State of Rajasthan v. Mohan Lal AIR 1971 Raj 318

Sahu Ram v. Bhup Singh [AIR 1917 PC 61]

Prasad v. Govindaswami [AIR 1982 SC 84]

Rajasthan v. Mohan Lal [AIR 1971 Raj 318]

Sita v Radha [AIR 1968 SC 534]

Sidheshwar Mukherjee v. Bhubneshwar Prasad [AIR 1954 SCR 177]

Shanmugha Udayar v. Shivanandam [AIR 1994 123]

Tiwari, P. & Sharma, S., Family Law Sons Pious Obligation, *Legal Service India.com*, retrieved, 13<sup>th</sup> March 2020 , [http://www.legalserviceindia.com/articles/sons\\_p.htm](http://www.legalserviceindia.com/articles/sons_p.htm)

The Indian Limitation Act, 1963

The Transfer of Property Act 1882

The Hindu Succession Act (Amendment Act, 2005), Section 6(4) ( India)

V. Nar Sinlu v. V. Ramayya [AIR 1979 AP 37]

V. Nar Sinlu v. V. Ramayya [AIR 1979 AP 37]

Virdhachalam v. Syrian Bank [Air 1964 SC 1425]

Venggruta v. Shri Venkata Narainmaha [AIR 1965 AP 439]

Assistant Professor, Department of Law, Bangladesh University of Professionals (BUP), Dhaka, Bangladesh. E-mail: [abuhaniflaw@yahoo.com](mailto:abuhaniflaw@yahoo.com)

Assistant Professor, Department of Law, North Western University, Khulna, Bangladesh. E-mail: [rumana.barsha@gmail.com](mailto:rumana.barsha@gmail.com)

## **Jibanananda Das and William Butler Yeats's Poems: A Comparative Study**

**Md. Abdul Awal<sup>1</sup>**

**Abstract:** This paper aims at exploring the similarities and the differences between the poetry written by Jibanananda Das and W.B. Yeats. Das might not be compared with Yeats in terms of reputation in international arena of literature and international recognition but if his poems such as "Panchish Bachhar Parey" (After Twenty-five Years), "Hemanta" (Autumn) and "Pencha" (The Owl) are read in parallel with Yeats' "Ephemera" and "The Falling Leaves, "Banalata Sen" with "Sailing to Byzantium", "Ami Jadi Hotam" (If I were) with "The White Birds", "Aat Bachhor Ager Ekdin", (A Day Eight Years Before) with "The Second Coming" and "Shokun" (The Vulture) with ("Leda and the Swan"), any reader would be surprised to find similar melancholic sensuousness, favouritism, and sensibility, sinfulness, moral degeneration, a lamentation of loss and the sense of the vainness of reminiscence. Like W.B. Yeats, Jibanananda Das might have been awarded the most prestigious Nobel Prize for his literary works if he had written in English. Though Das and Yeats belong to different cultural backgrounds, they customize the world vision and thought and have a strong love for legends and myths in their poetry. This paper justifies how Das and Yeats belong to two sides of the same coin of the poetic intelligentsia, employing style, structure, mood, idea, etc., in their poetry. Hence, the umbilical intention of the researcher is to analyze Das's poems comparatively, laying a special emphasis on the great treasure of Bengal so that the lovers of poetry outside Bengali speaking people may get a sense of the richness of Das's poetry and his growth as one of the great modern poets like Yeats.

**Keywords:** Comparison, tradition, translations, interliterariness, and universality.

### **Introduction**

This study is one of the most inclusive English introductions to the most popular Bengali modern poet, Jibanananda Das, and William Butler Yeats, the most prestigious Nobel Prize winner

---

<sup>1</sup> Assistant Professor, Department of English, Prime University, Dhaka, Bangladesh. E-mail: awalnanny@yahoo.com

for literature. The article contends to compare Das and Yeats' poems of reality, nature, and humanity. Das's achievement as a significant Bengal modern poet compares to Yeats for international recognition as a modern poet. Das's contribution to the exploration of the richness of the Bengali culture and tradition is immensely important like Yeats. The traditional complacency of the Bengali poets regarding the impeccability and resilience of Bangla poetry is shaken, and modern poets like Das and Yeats try to synthesize the amorphous ideas in their modern consciousness poets. Parallel to the fragmentary allusions to the sources of myths, these modern poets like Das and Yeats build multiple layers of human consciousness. The researcher attempts to recognize Das as a living, breathing modern poet of the world like Yeats.

The emergence of comparative literature also has much to do with the assertion of national identities. Comparative literature consists of French anthologists entitled *Cours de Littérature Comparee* (2016) (*The Course of Comparative Literature*). This was the beginning of comparative literature. There are many approaches to comparative literature. French Approach talks about the cultural transfer, colonialism, and domination. The German Approach is nationalistic but more about exploration. The 20th century American Approach is pretentiously geopolitical. Now the Postcolonial Approach has been as a resistance. The comparatists also give suggestions, such as Susan Bassnett's *Comparative Literature: A Critical Introduction* (1993), which identifies some methodological problems; therefore, she suggested that translation studies should replace comparative literature. Gayatri Chakravorty Spivak's *Death of a Discipline* (2003) identifies the euro centricity. Therefore, she recommended that area studies should replace comparative literature. Comparative literature is inevitable. Matthew Arnold, in his inaugural lecture at Oxford University in his essay, says: "Everywhere there is a connection, everywhere there is an illustration. No single event, no single literature is adequately comprehended except concerning other events to other literature" ("Comparative Literature," 1857).

Literature reflects cultural constructs and attitudes of its period that, of course, comprises attitudes towards humankind. This study narrates frustration, alienation, and fragmentation of modern life as exposed in Jibanananda Das and William Butler Yeats's poems. The study illustrates how Das and Yeats's poems excavate myths, panoramas, and landscapes through the cultural

presentation. It illuminates how Das and Yeats' writings styles are elegant, rhetorical, allegorical, musical, symbolic, imagery, and strong, which are masterfully engineered by their intelligentsias to present the reality of human beings. The researcher comparatively presents how Das and Yeats' poems are the fullest and finest expression of the universality of their same appeals and aesthetic rules of artistic production of literature as modern poets. By studying copious competent comparison to the world-famous poets like Yeats with Das into English, Das's achievement as a significant modern Bengal poet recognizes in the international literary conclave. His poems, a great treasure of Bengal literature, revive like Yeats through the medium of translation comparatively.

### **Theoretical Framework**

This comparative study emphasizes the interdisciplinary analysis in the cultural presentation of Jibanananda Das and W.B. Yeats. The researcher analyses and evaluates some of Das's poems such as "Panchish Bachhar Parey" (After Twenty-five Years), "Hemanta" (Autumn), and "Pencha" (The Owl) in parallel with Yeats' "Ephemera" and "The Falling Leaves, Das's "Banalata Sen" with Yeats' "Sailing to Byzantium," Das's "Ami Jodi Hotam" (If I were) with Yeats' "The White Birds," Das's "Aat Bachhor Ager Ekdin," (A Day Eight Years Before) with Yeats' "The Second Coming" and Das's "Shokun" (The Vulture) with Yeats' ("Leda and the Swan") to find out the proper subjects of comparative study through translating Bengal poems into English. This paper excavates different national cultural backgrounds of Das and Yeats to display the similarities and differences. It evaluates comparatively Bengalis and Irish cultures, creeds, customs, values, beliefs, and traditions as reflected in Das and Yeats' literary works. Comparative literature is an academic field dealing with literature and cultural expression across linguistic, national, and international boundaries. It has recently offered the study of diverse areas and cultures due to translation studies.

### **Literature Review**

The poetry of Jibanananda Das shows signs of influences of a large number of western poets such as Baudelaire, Eliot, Paul Valery, and Yeats. Some critics compare Das's pioneering role in

Bengal poetry for "his sense of rootedness applied to undivided Bengal rather than India as a whole." (Haq, 2009, p.102) Some of these influences are direct and tangible; some can be characterized as tone, sentiment, and attitude reverberations. Some critics have also compared Das's poetry with W. B. Yeats'. Khondakar Ashraf Hossain notes in his doctoral thesis, *Modernism and Beyond: Western Influences on Bangladeshi Poetry*:

Das found in Yeats a corollary of his poetic preferences and sensibilities. Das, like Yeats, harmonized the world of dream and thought; like Yeats he also had a strong love for the world of myths and legends (p. 62).

Yeats belongs to an inheritor of the French Symbolist movement, one of the movements of modernism in English poetry. Symbolist movement in Europe represents the 19th century Romanticism underwent a remarkable metamorphosis and Das's fascination much more in his landscape, his adaptation narrative technique and exposition of self-consciousness makes him as a high modernist poet, "Bengal's greatest modern poet" (Haq, p.101) and "great works of art cannot be appreciated alone." (Das, *Twenty Century Literary Criticism*, p.31) Fakrul Alam, in his "On Translating Jibanananda Das's Poetry," mentions:

In particular, Das appeared to have assimilated the early Yeats fully in evoking a world saturated with melancholy and tinged with death. Still, the poems seemed to have also meandered back to the romantic worlds of Shelley, Keats, Edgar Allan Poe, and the Pre-Raphaelites. (p. 6)

Thomas Stearns Eliot himself says on W.B. Yeats: "The kind of poetry that I needed to teach me the use of my voice did not exist in English at all; it was only to be found in French." (Yeats, 1948) Eliot recognizes the historical importance of Yeats's poetry: "He was one of those few whose history is the history of their own time, who are a part of the consciousness of an age which cannot be understood without them. This is a very high position to assign to him, but I believe that it is which is secure." (1940) There are many critical criticism and articles written on Das' poetry. In his one of the reviews, Haq notes: "Two essays on Jibanananda Das go for intriguing hair-splitting, though the one on the correct geographic location of maalay, which features in Das's best-known poem, "Banalata Sen," as well another poem, "Nirankus," leaves me unconvinced". (p.101) Das was not that much popular in his lifetime; he became famous posthumously.



Abdul Mannan Syed states:

After the poet's death, numerous poems, short stories – novels – essays – diaries – letters have been published and are being published till today. Actually, no other Bengali poets did make such wonder after their death. (*Kobitar Kotha*, (Talks on Poetry) 2002, p.5)  
[Translated by the author]

Das mainly writes poetry and occasionally prose, but those prose writings turn into poetry. Syed admires, "Das' criticism is around poetry too, but his criticism does not match with his other contemporary critics." (p. 8) He also notes that "...Unravelling and fixing truth is the mechanism of Das's writings. Das resides from Homer to Auden, from Syed Alaol to Nibaroon Pandita". (p.9) He again declares, "Jibanananda Das is one of the four principal Bengali poets of wider modern Bangla poetry. The other three are – Michael Madhusudan Dutt, Rabindranath Tagore and Kazi Nazrul Islam. (p.10) Poetry of "Bengalis, Michael, Tagore, Jibanananda, Syed Shamsul Huq, Bharati Mukherjee, Jhumpa Lahiri, is a coda appropriate to our particular moment in cultural history". (Haq, p.103) Das and Yeats possess the sameness in their poetry as "great art the poets are not lost in the isolation of their creation, but they share the unspoken desires of the times where all men are caught in a common rhythm which allowed them to communicate the feelings and strivings of mankind." (Kris, p. 32)

The researcher has gone through the critical views on Das and Yeats' poems about the similarities and the differences. The study finds considerable gaps that motivate the researcher to find solace in Das and Yeats' creative pursuit. Most critics and researchers regard Das and Yeats' poems echo tone, romanticism, attitude, and dissatisfaction with mundane life. Therefore, the researcher tries to analyze their poems in a new way and finds something new in the context of an unfathomable universe that is inspirational for others. In the study, the researcher adopts a comparative approach to locate gaps in this field. Hence, it is expected that the paper will make a new room and scope for the readers to reread and rethink other books in innovative ways.

## A Glimpse on Life and Works of Das and Yeats

Before doing a comparative study, the following facts of Jibanananda Das and William Butler Yeats would facilitate the understanding of their excellent literary works. Jibanananda Das was born on 17 February 1899, Barisal, Bangladesh, and died on 22 October 1954. He is an English Professor, Bangali poet, critic, novelist, and essayist belonging to a family of literary backgrounds like W.B Yeats. His parents are Satyananda Das and Kusumkumari Devi. Satyananda Das (1863-1942) is a schoolmaster, essayist, magazine publisher, and founder-editor of *Brohmabadi*, a Brahma Samaj journal dedicated to exploring social issues. Kusumakumari Das is a poet well-known for her famous poem, "Adorsho Chhele" (The Ideal Boy), whose refrain is very well known to Bengalis to this day: "Amader deshey hobey shei chhele kobey / Kothae na horo hoye kajey boro hobey". (The child who achieves not in words but deeds, when will this land know such a one?) His maternal grandfather, Chandranath Das, wrote comic songs. Das is brought up such a poetic environment as Aurobindo observes: "The work of the poet depends not only on himself and his age but also the mentality of the nation to which he belongs and the spiritual, intellectual, aesthetic tradition and environment which it creates for him." (*The Future Poetry*, 1972, p.38) During his lifetime Das published only 269 poems in different journals and magazines, of which 162 were collected in seven anthologies; *Jhara Palak* (1929) (*Fallen Feathers*), *Dhushor Pandulipi* (1936) (*Grey Manuscript*), *Banalata Sen* (1942), *Mahaprithibee* (1944) (*The Great World*), *Satti Tarar Timir* (1948) (*The Darkness of Seven Stars*), *Ruposhi Bangla* (1957) (*Beautiful Bengal*) and *Bela Obela Kalbela* (1961) (*In Time, Out of Time and a Time Apart*).

Das has his roots in the old tradition of Bangla poetry. The earliest extant example of poetry written in this language is the *Charjapada*, a body of Buddhist mystic songs written around the 10th century (Hossain, 2010, p.7). Bangladeshi poetry crystallized into a palpable and undeniable entity in the arena of world literature by winning the Nobel Prize by Rabindranath Tagore (1861-1941) for *Gitanjali* in 1913. Das contributes a lot to literature and receives Rabindra-Memorial Award for Banalata Sen in 1953 at the All Bengal Rabindra Literature Convention. *Shrestha Kavita* won the Sahitya Academy Award in 1955. Though "Das's early poems reveal some influences of Kazi Nazrul Islam, Satyendranath Dutta, and Mohitlal

Majumder, he shook off these influences to become a towering figure in Bengali poetry." (Ahmed, 2016) Today Das is acknowledged as "the premier poet of the post-Tagore era in India." (Haq, p.102. Author and literary critic Amit Chaudhuri admires: "The poems are now part of the Bengali consciousness, on both sides of the border dividing India from Pakistan and is now Bangladesh; it's safe to claim that Das is the pre-eminent and best-loved Bengali poet after Tagore." (Qtd. in Ahmed, 2016)

Das is one of the significant poets like the Irish poet Yeats, who received the world's most prestigious Nobel Prize for Literature in 1923. He was born on June 13, 1865, in Dublin, Ireland. He is a poet of distinction on more counts than one: a lyric poet, a mystic, a mythologist, a romantic—all at the same time; he is a poet with a political ideology; he is a poet with a prophetic vision and an occult philosophy. His early accomplishments include *The Wanderings of Oisín and Other Poems* (1889), *The Collected Poems of W. B. Yeats* (1989) and such plays as *Countess Cathleen* (1892) and *Deirdre* (1907). Yeats devotes significant energy to writing plays. He published *Representative Irish Tales* (1891), *'The Countess Cathleen' and Various Legends and Lyrics* (1891), *Irish Fairy Tales* (1892), *The Celtic Twilight* (1893), *The Land of Heart's Desire* (1894), etc. He continues to write until his death. Yeats passed away on January 28, 1939. The platform for biographies of Jibanananda Das and William Butler Yeats is described as an agenda for having their excellent literary careers. Das and Yeats belong to educated and prosperous families and have different solid cultural backgrounds. They contribute significantly to the arena of literature.

### **Analysis of the Comparanda from the Poetry by Das and Yeats**

Das excavates Yeatsian poetic mode. He found in Yeats a repercussion of his poetic preferences and sensibilities. Das, like Yeats, harmonizes the world of dream and thought. A melancholic sensuousness can be felt in Das's "Panchish Bachhar Parey" (2012, p. 35 (After Twenty-five Years) of *Dhushar Pandulipi (Grey Manuscripts)*, Das meets his beloved for the last time in a cornfield. In "Pencha" (The owl), the emptiness of the newly reaped fields of "Hemanta" (Autumn) brings a sense of sad longing. A similar melancholic

sensuousness can also be felt in Yeats's poems "The Falling Leaves" and "Ephemera" in his first book, *Crossways* (1889). The falling leaves of Autumn, the fleeting beauty of a declining day, and the play of receding light on the sheaves of corn in the field establish the backdrop against which Yeats' beloved takes her to leave. "The Falling Leaves" and "Ephemera." "Panchish Bachhar Parey", "Hemanta" "Pencha", "The Falling Leaves," and "Ephemera" seem to be decorated by a kind of sensuousness that smells the sameness. Mitra, a critic, has shown this similarity between the poetry of Das and the poetry of Yeats by quoting two excerpts, one each from Das and Yeats:

I know your eyes do not seek me now, on earth –  
 I said, and fell silent. Only ashwattha leaves are lying  
 On the grass – dry, withered and torn.  
 – Aghraan has arrived today in the earth's forest:  
 Yet long before all this, Autumn had come in the minds  
 Of us two. She said, 'How is the silence on the face  
 Of these leaves spread on the grass –  
 The darkness of the evening has spread on the water.  
 (Das, "Aghraaner Pantarey" [In the field of  
 Autumn],

'YOUR eyes that once were never weary of mine  
 Are bowed in sotrow under pendulous lids,  
 Because our love is waning.'  
 And then She:  
 'Although our love is waning, let us stand  
 By the lone border of the lake once more,  
 ...  
 The woods were round them, and the yellow leaves  
 Fell like faint meteors in the gloom  
 (Yeats, "Ephimera") (Quoted in *Adunik Bangla  
 Kabitay Europeo Prabbah*, 1986, p.108)

The longing for calamity runs through every poetic vein of Yeats's "Sailing to Byzantium" and Das's "Banalata Sen" which are quest and escape poems. In these poems, both poets express their dissatisfaction with the mundane life and their desire to find solace in their creative pursuits. Yeats would like to have his emotional heaven and spiritual Kingdom in Byzantium. In contrast, Das gets bored with the hustle and bustle of daily life and finds his solace in a particular maiden, Banalata, who lives in Natore. In "Sailing to Byzantium," "... And therefore I have sailed the seas", Yeats ends his journey which echoes "Banalata Sen," "For a thousand years I have walked the ways of the world / From the sea of the Sinhala to Malaya's in the night of

darkness." Yeats finalizes saying, "... and come / To the holy city of Byzantium" again reminds readers regarding regaining Das's bliss with Banalata Sen of Natore." So, reciprocal illuminations are sleeping in the titles, traditions, influences, and illusions and here the interliterariness, i.e., guiding and unifying principles of Das and Yeats encompasses for exploring the bitter conditions of modern life out of their sentiment "which manifests itself is less what the language says and more what it does, i.e. words take on an energy in their contextual and intertextual life" (Gentzler, p. 40).

A glowing similarity can also be noticed between Yeats's "The White Birds" and Das's "Ami Jadi Hotam" (If I were). It can also be realized that the former has been the source of the later poem. Some lines of both poems are culled:

Or the flame of the blue star that fingers hung low in the  
fall of the dew:  
For I would we were changed to white birds on the  
wandering foam:  
I and you!  
(Yeats, "The White Birds")

If I were a wild gander  
And you a wild goose;  
Living next to some far-away Jalshiri river bank  
Inside a solitary nest  
In slender reeds  
Close by paddy fields;  
(Das, "Ami Jadi Tumi Hotam" (If I were) p. 65)

In many circumstances, some sparks from a poem of Yeats elevate the imagination of Das, who seeks to approximate a poetic world that belongs to Yeats in some fundamental ways. It is a fact, "no poet, no artist of any art, has complete meaning alone...You cannot value him alone; you must set him, for contrast and comparison". (T. S. Eliot, 1888-1965) It sometimes seems as though Das were merely paraphrasing Yeats's poems. One can claim that Das's "Hai Chil" (Alas, oh Kite!) is written mere imitation of Yeats's "He Reproves the Curlew." Some extractions; one each from Das and Yeats are displayed below:

O curlew, cry no more in the air,  
Or only to the water in the west;  
Because your cry brings to my mind  
Passion-dimmed eyes and long heavy hair  
That was shaken out over my breast;  
There is enough evil in the crying of the wind.  
(Yeats, "He Reproves the Curlew")

Alas, kite! The kite of golden wings, do not cry  
Flying in this noon among wet clouds beside the Dhansiri river!  
Your cries bring to mind her dim eyes like the bet-fruits!  
Like the golden princesses of the earth  
She has gone far away with her beauty.  
Why do you call her back? Who loves to dig up hearts' pain?  
Alas, kite – the kite of golden wings – do not cry  
Flying in the wet, cloud-filled noon beside the Dhansiri river.  
(Das, "Hai Chil", p. 67)

But one must acknowledge that Jibanananda Das's "Alas, oh Kite!" is much more pregnant in the lamentation of loss and the sense of the futility of remembrance than that of Yeats's "He Reproves the Curlew." In his letter to Das, Tagore himself writes that undoubtedly Das is endowed with poetic power; in another letter to Das, Tagore also writes, "Das's writings bear all which are flavor, originality and a sense of joy to behold." Das is a poet of the purest kind for his extraordinary exploration of exhausting emotions in "Alas, oh Kite!" which seems to be an echo that of Yeats's "He Reproves the Curlew."

Vivid landscapes are presented in Das's "Banglar Mukh Ami Dekhiyachhi" (I Have Seen Bengal's Face) and Yeats's "The Lake Isle of Innisfree." Poetic imagination is one of the primary sources through which Yeats and Das excavate blue properties for the aesthetic beauty of literature. In poem after poem, they describe the dew-soaked earth, smelling the fragrance of flowers and breathing in the calm of the air and the sky. One can surely be satisfied with the excellent poignant description in the following lines in Das and Yeats:

I have seen Bengal's face, and seek no more,  
The world has not anything more beautiful to show me.  
Waking up in darkness, gazing at the fig tree, I behold  
Dawn's swallows are roosting under huge umbrella-like leaves.  
I look around me and discover a leafy dome-  
(Das, "Banglar Mukh Ami Dekhiyachhi" (I Have Seen Bengal's Face), p. 49)

Nine bean rows will I have there, a hive for the honey bee,  
And live alone in the bee-loud glade.  
And I shall have some peace there, for peace comes dropping slow,  
Dropping from the veils of the morning to where the cricket sings;  
There midnight's all a glimmer, and noon a purple glow,  
And evening full of the linnets' wings.  
(Yeats, "The Lake Isle of Innisfree")

Yeats and Das are poets par excellence for using myths in their poetry. Their poetry is enriched by their imaginations for the essence of the poetic ideology "to incorporate the alien and different world of the nature into persisting archetypal forms that serve to satisfy enduring human desires and needs" (Abrams, p.224). They use the concept of changing intellectual imagination in art to illustrate modes of the mythological pattern. Das's "Shokun" (The Vulture) and Yeats's "Leda and the Swan" exemplify unity in diversity for the use of myth. The poems depict a mythic union of divinity and humanity, nature versus art and negative versus positive. Two excerpts, one each from Das and Yeats are quoted below. Das, "Shokun" (The Vulture):

From their post in the sky, vultures descend together from  
the thick clouds-  
As if mythical elements, smoke-colored, tired of propping  
up the sky,  
Fallen from distant lights into Asia's fields, meadow, and  
vast expanse....  
Viewing the beauty of the world once- watching ships in  
Mumbai  
Berth in the port in darkness; then flying towards  
delectable Malabar;  
(Das, p. 37)

How can those terrified vague fingers push  
The feathered glory from her loosening thighs?  
And how can body, laid in that white rush,  
But feel the strange heart beating where it lies?

A shudder in the loins engenders there  
The broken wall, the burning roof and tower  
And Agamemnon dead.  
Being so caught up,  
So mastered by the brute blood of the air,  
Did she put on his knowledge with his power  
Before the indifferent beak could let her drop?  
(Yeats, "Leda and the Swan")

Das and Yeats use mythology to imply the associative total of a concept and create total organic unity out of the self-autonomy of the imagination. The use of myths in "Shokun" (The Vulture) and "Leda and the Swan" deal with the antithesis of the physical and sensual world versus the world of intellect and imagination, the mortal versus the eternal and "the material universe into an alternatives universe that is humanly intelligible and viable, because it is adapted to essential human needs and concerns"

(Adams, p.225). Yeats unites history with myth in that both move in cycles, as Robert Langbaum in his *The Mysteries of Identity: A Theme in Modern Literature* claims:

Yeats came to understand that history moves not in a straight line but cycles. The new age cannot be said to advance on the old because each period values opposite things and because the new era brings back specific values rejected by the old. The importance of the new age terrorizes the old. Through terror, as the two stories indicate, history moves, and that the revelation ushering in the new era descends (p. 148).

Das's creative intelligentsia makes the pattern more inventive when in "Shokun" (The Vulture), the eight elephants are portrayed as propping up the sky. Das's subjective response makes each word a separate entity, in harmony with legends and myths that tend to evoke both consciousness and deep perception concerning one another. Alam in his, *Jibanananda Das- Selected Poems with an Introduction, Chronology, and Glossary* says:

Combining close observation of Bengali flora and fauna with the country's legends, Das creates a non-human, sensuous, myth-suffused, and wondrous land that he thought too private to be presented to his contemporaries in his lifetime (p. 8).

Das and Yeats elevate parallel pessimistic views in "The Second Coming" and "Aat Bachhor Ager Ekdin" (A Day Eight Years Before), respectively. The following verses of the poems reconnoiter the modern people's isolation, fragmentation, and moral degradation.

I know - I know at last.  
Love of women-romance-children-home- is not everything at all;  
Nor money, nor good deeds, nor affluence are-  
But there is one forgotten wonder  
That plays games in our blood  
In our veins;  
That makes us exhausted  
Makes us tired, makes us devoured;  
In the morgue there is no fatigue;  
So  
In the morgue  
He is sleeping lain on the table.  
(Syed, p. 56) [Self-Translation]

Things fall apart; the centre cannot hold;  
Mere anarchy is loosed upon the world,



The blood-dimmed tide is loosed, and everywhere  
The ceremony of innocence is drowned;  
The best lack all conviction, while the worst  
Are full of passionate intensity.  
(Yeats, "The Second Coming")

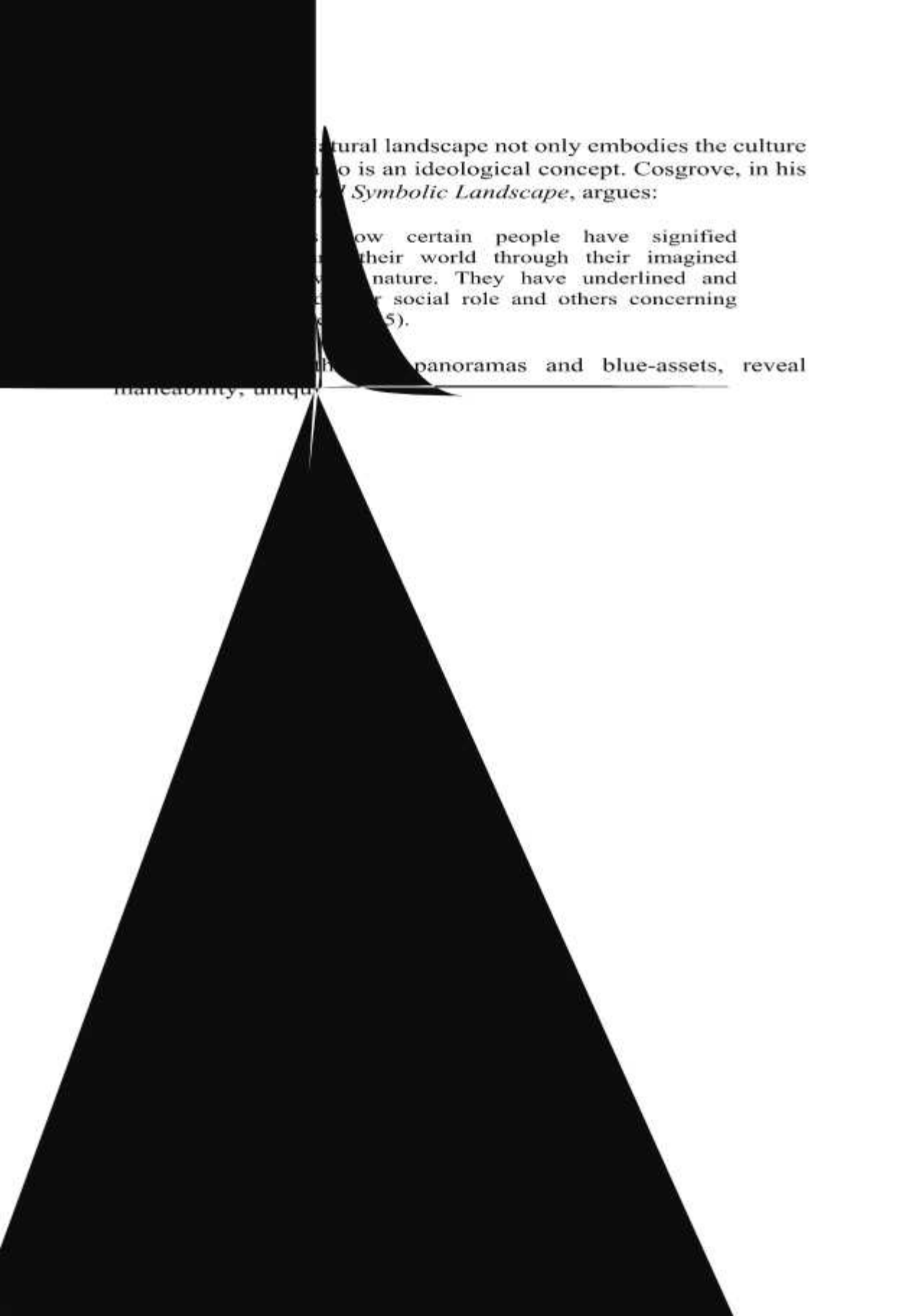
"The Second Coming" and "Aat Bachhor Ager Ekdin" reveal the devils of modern society. An atmosphere of fanaticism and violence runs through the poems. The fact in "Aat Bachhor Ager Ekdin" is that the corpse had everything his wife, children, wealth, and without problems when he was alive. The man commits suicide, is now lying on a table at the morgue, and the cause of his suicide is unknown, indicating the total spiritual barrens of modern civilization. Instead of peace in "The Second Coming," the rough beasts finally grasp the power for materialistic interests out of barbarism that also denotes the degradation of the modern civilization. The socio-economic and political upheaval in "The Second Coming" and "Aat Bachhor Ager Ekdin" may verbalize the reality and "enables the readers to perceive similarities and differences." (Aldridge, 1985)

Expression, eloquence, and nostalgia customize the natural landscapes wonderfully in Das's "Abar Ashibo Firey" (Beautiful Bengal) and Yeats "The Happy Townland" out of Das and Yeats' success spontaneous incorporation of national and world heritage into their personal experiences and feelings. The readers can mirthfully be fascinated by the following verses:

I will return to the shore of this river Dhanshiri – to this Bangla  
Maybe not as human – may be in the form of a fairy kite  
or a martin;  
Or in the form of a morning crow in this land of winter –  
(Das, "Abar Ashibo Firey," p. 51)

Boughs have their fruit and blossom.  
At all times of the year;  
Rivers are running over  
With red beer and brown beer.  
An old man plays the bagpipes  
In a golden and silver wood;  
Queens, their eyes blue like the ice,  
Are dancing in a crowd.  
(Yeats, "The Happy Townland")

This idealized landscape in "Abar Ashibo Firey" and "The Happy Townland" displays beautiful, rich, and simple images with urban and rural people, rivers, birds, fairies, and comprehensive views in



natural landscape not only embodies the culture  
to is an ideological concept. Cosgrove, in his  
*The Symbolic Landscape*, argues:

... how certain people have signified  
their world through their imagined  
nature. They have underlined and  
their social role and others concerning  
(5).

... panoramas and blue-assets, reveal  
maneuverability, unique

Alam, F. (1999) 'On translating Jibanananda Das's poetry', *Jibanananda Das- Selected*.

*Poems with an Introduction, Chronology, and Glossary*, The University Press Limited, Bangladesh.

Aldridge, A. O. (ed) (1969) *Comparative Literature: Matter and Method*, vol.10, University of Illinois Press.

Anonymous (2011) *Cours de Litterature Comparee*, Nabu Press, United State.

Arnold, M. (1857) "On the Modern Element in Literature", *Encyclopaedia Britannica*, University of Oxford, viewed 14 January 2021, [www.britannica.com/topic/On-the-Modern-Element-in-Literature](http://www.britannica.com/topic/On-the-Modern-Element-in-Literature)

Aurobindo, S. A. (1972) *The Future Poetry*, Sri Aurobindo Birth Century Library, vol. 9, India, retrieved 26 July 2020, [https://www.aurobindo.ru/workings/sa/index\\_e.htm?](https://www.aurobindo.ru/workings/sa/index_e.htm?)

Bassanet, S. (1993) *Comparative Literature: A Critical Introduction*, Wiley-Blackwell, United Kingdom.

Cosgrove, D. E. (1998) *Social Formation and Symbolic Landscape*, University of Wisconsin Press, Madison, Wisconsin.

Barthes, R. (1972) *Mythologies*, Hill and Wang, New York.

Das, B. K. (2010) "Basic Tenets of New Criticism", *Twenty Century Literary Criticism*, Atlantic Publication & Distributors P. Ltd, India.

Billah, Q. M., Mortuza, S., Alam, F., Shahidullah, M., Haider, Z. (eds.) (2012) "Banglar Mukh Ami Dekhiyachhi", *English For Today: Classes XI-XII And Alim*, Bishwa Sahitya Kendra, Bangladesh.

Das, J., Alam, F. (translated) (1999) "Abar Ashibo Firey" (When I return), *Jibanananda Das- Selected Poems with an Introduction, Chronology, and Glossary*, The University Press Limited, Bangladesh.

Das, J., Alam, F. (translated) (1999) "Ami Jadi Tumi Hotam" (If I were you), *Jibanananda Das- Selected Poems with an Introduction, Chronology, and Glossary*, The University Press Limited, Bangladesh.

Das, J., Alam, F. (translated) (1999) "Banglar Mukh Ami Dekhiyachhi" (I have seen Bengal's face), *Jibanananda Das- Selected Poems with an Introduction, Chronology, and Glossary*, The University Press Limited, Bangladesh.

Das, J., Alam, F. (translated) (1999) "Ah Kite" (Hai chil), Jibanananda Das- Selected Poems with an Introduction, Chronology, and Glossary, The University Press Limited, Bangladesh.

Das, J., Alam, F. (translated) (1999) "The Vulture" (Shokun), Jibanananda Das- Selected Poems with an Introduction, Chronology, and Glossary, The University Press Limited, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) "Aat Bachhor Ager Ekdin" (A day eight years back)", Sreshtha Kobita: Jibanananda Das, Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) "Abar Ashibo Firey" (When I Return), Sreshtha Kobita: Jibanananda Das (Best Poems: Jibanananda Das), Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) Kobitar Kotha (Talks on poetry), Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) "Panchish Bachhar Parey" (After twenty-five years), Dhushar Pandulipi (Grey Manuscripts), Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) "Banalata Sen", Sreshtha Kobita: Jibanananda Das, Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) "Bhumika" (Prologue), Sreshtha Kobita: Jibanananda Das, Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) "Kobitar Kotha" (Talks on poetry), Kobitar Kotha, Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) "Mukhabandha" (Preface), Kobitar Kotha, Bishwa Sahitya Kendra, Bangladesh.

Das, J., Mahmud, S. A. (eds) (2012) Shuddhatama Kobi: Jibanananda Dasher Kabba Alachana, Bishwa Sahitya Kendra, Bangladesh.

Das, K. (2017) "Adarsha Chhele (The ideal boy)", Sahitya Jagat, (Literary World) A collection of Bengali literary, viewed 23 October 2020, <https://jyotirjagat.wordpress.com/2017/02/11/3317/>

Eliot, Thomas, S. (1940) "Yeats", Yeats (Purpose, July and December 1940) - T. S. Eliot, viewed 15 January 2021. [www.tseliot.com > essays > yeats.](http://www.tseliot.com/essays/yeats)

Gentzler, E. (1993) Contemporary Translation Theories, Routledge, London.

- Hossain, A. (2010) *Modern And Beyond: Western Influences on Bangladeshi Poetry*, PhD dissertation, Dhaka Viswavidyalay Prakashana Samstha, Bangladesh.
- Haq, K. (2009) "Clinton B. Seely, Barisal and Beyond: Essays on Bangla Literature", *ASIATIC: Iium Journal of English Language and Literature*, vol. 3, no.1, pp. 101-113, viewed 13 January 2021 <https://journals.iium.edu.my/asiatic/index.php/ajell/issue/view/11>
- Kris, E. (1952) *Psychoanalytic Explorations in Art*, International Universities Press, USA.
- Langbaum, R. (1982) *The Mysteries of Identity: A Theme in Modern Literature*, U f Chicago, Chicago.
- Mitra, M. (1986) *Adunik Bangla Kabitay Europeo Prabbah*, Nabarka, Kolkata.
- Richards, I. A. (1985) "Metaphors", *The Philosophy of Rhetoric*, Oxford University Press New York.
- Spivak, Chakravorty, G. (2003) *Death of a Discipline*, Columbia University Press, United States.
- Texte, J. (ed) (2011) *Cours de Litterature Comparee*, vol. 2, Nabu Press, United State.
- Yeats, Butler, W. (1889) "Ephemera", *Crossways*, Kessinger Publishing Co., UK.
- Yeats, Butler, W. (1986) *Essays and Introductions*, Collier, New York.
- Yeats, Butler, W. (1966) *The Collected Poems of W. B. Yeats*, Macmillan, London.
- Yeats, Butler, W. (1889) "The Falling Leaves." *Crossways*, Kessinger Publishing Co., UK.
- Yeats, Butler, W. (ed) (2008) "Leda and the Swan", *W. B. Yeats Selected Poems*, Friends' Book Corner, Dhaka.
- Yeats, Butler, W. (ed) (2008) "The Happy Townland", *W. B. Yeats Selected Poems*, Friends' Book Corner, Dhaka.
- Yeats, Butler, W. (ed) (2008) "Sailing to Byzantium", *W. B. Yeats Selected Poems*, Friends' Book Corner, Dhaka.
- Yeats, Butler, W. (ed) (2008) "The Second Coming", *W. B. Yeats Selected Poems*, Friends' Book Corner, Dhaka.
- Yeats, Butler, W. (ed) (2008) "The White Birds", *W. B. Yeats Selected Poems*, Friends' Book Corner, Dhaka.
- Yeats, Butler, W. (ed) (2008) "The Lake Isle of Innisfree", *W. B. Yeats Selected Poems*, Friends' Book Corner, Dhaka.

# Digital Forensic in the Criminal Justice System in Bangladesh: A Critical Review

Golam Sarowar<sup>1</sup>

**Abstract:** In the present world the influence of digital forensic in the criminal justice system is colossal. Due to the advancement of technology the pattern of committing crime has been changed with passing days and it's become difficult for the law agencies to solve high-tech crimes. The delivery of justice highly depends on the integrity and accuracy of the evidence. In this context, digital forensic plays a pivotal role to analyze techniques to gather and preserve digital evidence from a particular computing device in order to present it before court of law. The pervasive use of computer and other electronic device has resulted in the increasing importance of digital forensic in Bangladesh. In this context, the paper will review the role of digital forensic in the criminal justice system in Bangladesh.

**Keywords:** Digital forensic, cyber-crime, digital evidence, technology, criminal justice.

## Introduction

In recent years, Bangladesh has become one of the most vulnerable countries in cyber space. Cyber-attacks often took place, which caused loss of assets in very recent time. With the increasing number of internet users, the number of attacks ratio is also going up. This has led to the rise of Digital Forensic. Cyber-crimes leave behind digital 'fingerprints' in the form of electronic data (from computers, networks, the cloud, GPS systems, and smart phones). According to the Kaspersky Security Bulletin 2015, Bangladesh is in the second position in the level of computer virus infection among all the countries (BGD e-GOV CIRT, 2015). Unfortunately, very few of the reported cyber-crime cases result in conviction. Convictions are often crucially depending on the appropriate conversion of digital evidence into a legally acceptable and convincing form of evidence. Inconclusive results may lead to wrong interpretations and conclusions through which a criminal may walk scot-free or force an innocent to suffer negative consequence (Bhattathiripad, 2015). Since computers, mobile phones, and the

---

<sup>1</sup> Assistant Professor, Department of Law, Prime University, Dhaka, Bangladesh and M. Phil (Fellow), Institute of Bangladesh Studies, University of Rajshahi Rajshahi, Bangladesh. E-mail: advocatesarowarnafi@gmail.com

internet represent the largest growing resource for criminal perpetrators, digital forensic has assumed a key role in the law enforcement sector for enforcing criminal justice in Bangladesh. Unlike traditional DNA forensic science, Digital Forensic poses substantial challenges. Data on a computer system can be altered without a trace. Additionally, the scale of data that must be examined is vast, and the diversity of data types is huge. Just as a traditional forensic investigator must be prepared to scan and analyze any kind of smear or fragment, a Digital Forensic investigator must be able to make sense of any data that might be found on any device anywhere, which is a very demanding proposition (Kabir, 2018). As cyber-crimes offering a high-yield and relatively low risk opportunity that doesn't require physical violence, law enforcement agencies are now continually engaged in digital forensic activities to curb the exploits of fraudsters, identity thieves, ransom ware distributors, and others in the cyber-criminal ecosystem.

Since the inception of country's lone Cyber Tribunal in Dhaka, it was found that charges against the accused were proved in only 15 out of 495 cases. Of the cases, police submitted the final report in only 129 cases before the tribunal. The accused were released as charges were not proved. The accused were discharged at the outset in 83 cases during charge framing hearings, when the court found the probe reports to be faulty. In another 54 cases, the accused were acquitted when the prosecution failed to prove charges against them. Cybercrimes are reported every day in the country, 2,044 cases were filed with different police stations and the cyber tribunal in the last six years, according to Cyber Tribunal (Bangladesh) data. The tribunal data shows the court received 925 cybercrime cases in 2018, and as many as 130 cases in the first two months of 2019 (*Dhaka Tribune*, 2019).

Considering the above facts and very poor conviction rate, strong legal institutional framework ensuring the use of digital forensic in criminal justice system is necessary, which can expedite the criminal justice system in Bangladesh.

### **Objective of the Study**

The main objective of this study is to review the importance of digital forensic in the criminal justice system in Bangladesh. This study also tries to evaluate how digital forensic plays a

crucial role in every tier of criminal justice system of Bangladesh especially in investigation and management of the crime, trial proceeding, and assessment of evidence. The specific objectives are:

- To assess the present status of cyber-crime in Bangladesh.
- To justify the need for formulation of legal and institutional frameworks of criminal justice system in Bangladesh involving digital forensic.
- To suggest an adaptable solution to enrich the investigation system in the criminal justice system of Bangladesh.

### **Methodology**

The content analysis method has been used to analyze the existing law. Necessary data are taken from both primary and secondary sources. The Digital Security Act, 2018, the Information and Communication Technology Act, 2006, the Evidence Act, 1872 have been used as primary sources whereas the secondary sources of data are taken from relevant books, journals, reports, published or unpublished thesis, dissertation, newspaper, different websites and data from various official and unofficial sources.

### **Conceptual Analysis**

Digital forensic is a branch of forensic science that focuses on the recovery and investigation of material found in digital devices related to cybercrime. The term digital forensics was first used as a synonym for computer forensics (What is Digital Forensics, Phases of Digital Forensics, EC, (n.d.). "It is the process of uncovering and interpreting electronic data. The goal of the process is to preserve any evidence in its most original form while performing a structured investigation by collecting, identifying and validating the digital information for the purpose of reconstructing past events. The context is most often for usage of data in a court of law, though digital forensics can be used in other instances" (What does Digital Forensics mean?-Definition from Techopedia, 2017).

Digital Forensics is defined as the process of preservation, identification, extraction, and documentation of computer



evidence which can be used by the court of law. It is a science of finding evidence from digital media like a computer, mobile phone, server, or network. It provides the forensic team with the best techniques and tools to solve complicated digital-related cases. Digital Forensics helps the forensic team to analyze, inspect, identify, and preserve the digital evidence residing on various types of electronic devices (What is Digital Forensics? History, Process, Types, Challenges, (n.d.)).

Digital forensic investigations have a variety of applications. The most common is to support or refute a hypothesis before criminal or civil courts. Criminal cases involve the alleged breaking of laws that are defined by legislation and that are enforced by the police and prosecuted by the state, such as murder, theft and assault against the person. Civil cases on the other hand deal with protecting the rights and property of individuals (often associated with family disputes) but may also be concerned with contractual disputes between commercial entities where a form of digital forensics referred to as electronic discovery may be involved (Digital Forensic, n.d-a).

The technical aspect of an investigation is divided into several sub-branches, relating to the type of digital devices involved; computer forensics, network forensics, forensic data analysis and mobile device forensics. The typical forensic process encompasses the seizure, forensic imaging (acquisition) and analysis of digital media and the production of a report into collected evidence. As well as identifying direct evidence of a crime, digital forensics can be used to attribute evidence to specific suspects, confirm alibis or statements, determine intent, identify sources (for example, in copyright cases), or authenticate documents (Digital Forensic, n.d-b).

Digital forensic leads to digital evidence which is information stored or transmitted in binary form that may be relied on in court. It can be found on a computer hard drive, a mobile phone, among other places. Digital evidence is commonly associated with electronic crime, or e-crime, such as child pornography or credit card fraud. However, digital evidence is now used to prosecute all types of crimes, not just e-crime. For example, suspects' e-mail or mobile phone files might contain critical evidence regarding their intent, their whereabouts at the time of a crime and their relationship with other suspects (Novak, Grier and Gonzales, (2018). In an effort to fight e-crime and to collect relevant digital evidence for all crimes, law enforcement

agencies are incorporating the collection and analysis of digital evidence, also known as computer forensic, into their system of investigation.

### **The Rise of Cyber Crime and the Importance of Digital Forensic in Bangladesh**

From the past few years we have seen some unimaginable advancement of technology and although that advancement were beneficial for individuals and businesses alike, they have also become tools for fraudsters and cyber criminals to steal personal information, money and data which were being used for criminal purpose. Hackers use technology to hide their illicit activities and to move funds across jurisdictions and around the globe. Their operations are complex and they have significant resources to help them evade detection.

In the recent past, several big cyber-crime incidents happened in Bangladesh. According to state-run Bangladesh e-Government Computer Incident Response Team (BGD e-Gov CIRT) under the Ministry of Posts, Telecommunications and Information Technology, the incidents registered with the organization increased to 870 in 2018 from 683 in 2017. The figure was 379 in 2016. Of the attacks, vulnerability accounts for 63.2 percent, intrusion or hackings 5.7 percent, malicious code 22.5 percent, abusive content 4.5 and the rest comprise fraudulence, intrusion attempts, service request, information security and others (*The Financial Expert*, 2019).

Several attacks have taken place at financial organizations recently in Bangladesh. Bangladesh Bank faced a heist a few months ago, which caused a big financial loss. Bangladesh police alleged that technicians associated with the SWIFT financial network introduced vulnerabilities into the banking software that made it easier for hackers to infiltrate the systems of Bangladesh Bank. These network weaknesses allowed hackers to carry off \$81 million from Bangladesh's Central Bank in February. Bangladesh Bank said that the Hackers Tried to steal \$951 Million.

The country witnessed its biggest ATM card fraud in February 2016 when skimming devices were planted in several ATM booths of some banks to steal card information and create duplicates, according to Bangladesh Bank. Nearly Tk. 10 million was swindled in such incidents which affected City Bank,

Eastern Bank Limited, United Commercial Bank and Premier Bank. City Bank was forced to repay a significant amount to its customers whose cards were swindled. BRAC Bank also repaid Tk 0.7 million to its customers for the same reason in April, 2018 (BGD e-GOV CIRT, 2015).

Besides the financial aspects, there are some serious cyber-crimes took place in Bangladesh. In 20<sup>th</sup> October, 2019, at least four people were killed and a hundred others injured as police tried to prevent mob in Bhola from taking revenge against a man they thought responsible for a hate conversation through Facebook's messenger app. Seemingly designed to hurt religious sentiments, the conversation went viral through social media in the locality since October 18, and the person in the center of the storm himself went to the Borhanuddin Police Station in the afternoon on the day and filed a general diary stating that his Facebook ID might have been hacked. The local administration and police took initiatives to stymie the simmering tension by engaging with the communities and keeping the accused in safety custody, but a quarter continued to fuel it. But, in no time this morning, a group of people built a stage and set up 17 loudspeakers, and a section of them was violent. Soon, 15-20,000 people gathered there. As police tried to calm them down, the protesters targeted police, throwing brick-chips at police and forcing them to take shelter in a nearby room. The UNO then informed the situation to deputy commissioner, who permitted the top local officials to come out safely by firing (*The Daily Star*, 2019).

In October 3, 2019 Cybercrime Unit of Dhaka Metropolitan Police arrested a facebook hacker from Cumilla who is accused of hacking 200 FB accounts. He allegedly extorted money from people in exchange for giving their accounts back. In July of 2019, a young woman from Mohammadpur in Dhaka received a message on her Facebook Messenger account, from a known person who wanted to share a 'confidential matter' with her. That person told her that someone from another account had been spreading some compromising personal photos of the woman (*Dhaka Tribune*, 2019). Since the woman did not believe this, the person shared a link in the chat box asking her to see them for herself. "That was actually a 'phishing link' and the person who posed as one of her Facebook friends was actually a hacker. That person hacked the woman's Facebook account like he did with more than 200 other accounts," said Deputy Commissioner (ADC) Mishuk Chakma of the Counter Terrorism

and Transnational Crime (CTTC) unit of Dhaka Metropolitan Police (*Dhaka Tribune*, 2019).

All these incidents clearly indicate the vulnerability of cyber space arena of Bangladesh. Digital forensic basically helps to trace these attackers and discover their intention and find out the reasons what motivated them to do the illegal acts. Security professionals regularly use such tools to analyze network intrusions not to convict the attacker but to understand how the perpetrator gained access and to plug the hole. Irrespective of the motivation, the examination, interpretation, or reconstruction of trace evidence in the digital world, digital forensic is also the practice of identifying, collecting, analyzing, and reporting on information found on computers, mobile devices and networks, in such a way that the evidence is admissible in a legal context. In addition, evidence of all types of crimes such as assault, murder, human trafficking, fraud and drug dealing are increasingly found in digital devices that either the perpetrator or the victim used. The above information clearly indicates that Digital forensic is essential for detecting the cybercrimes and prosecuting criminals in Bangladesh.

### **Types of Digital Forensic**

Digital Forensic has a very wide scope. It can be classified in many ways. Therefore, it must be divided into some specialized branches to facilitate greater knowledge base in each area. The types of digital forensic are as follows:

**a. Disk Forensic:** It is the science of extracting forensic information from digital storage media like Hard disk, USB devices, FireWire devices, CD, DVD, Flash drives, Floppy disks etc.

**b. Printer Forensic:** Printed material is a direct accessory to many criminals and terrorist acts. In addition, printed material may be used in the course of conducting illicit or terrorist activities. In both cases, the ability to identify the device or type of device used to print the material in question would provide a valuable aid for law enforcement and intelligence agencies. For example, counterfeiters often digitally scan currency and then use colour laser and inkjet printers to produce bogus bills. Forgers use the same methods to make fake passports and other documents. Investigators want to determine that a fake bill or

document was created on a certain brand and model of printer. They also want to identify not only model printer was used but specifically which printer was used. Thus, it will be possible to tell the difference between counterfeit bills created on specific printers even if they are the same model. First, by analyzing a document to identify characteristics that are unique for each printer and second by designing printers to purposely embed individualized characteristics in documents (Paranjpe, 2016).

**c. Network Forensic:** Network forensic is a sub-branch of digital forensic relating to the monitoring and analysis of computer network traffic for the purposes of information gathering, legal evidence, or intrusion detection. Network forensic is the process of gathering and examining raw data of network and systematically tracking and monitoring traffic of network to make sure of how an attack took place. It also helps to investigate offenses after the event, determine how they have occurred and identify the party or parties responsible. A digital forensic investigator will gather network-based evidence from a particular computing device in the network so that it can be presented in court, conducting a thorough digital investigation and building a documented chain of evidence (Mugisha, 2019).

**d. Mobile Forensic:** Mobile phone forensic is the science of recovering digital evidence from a mobile phone under forensically sound conditions using accepted methods. Mobile phones, especially those with advanced capabilities, are a relatively recent phenomenon, not usually covered in classical computer forensic. Mobile phone forensic includes the analysis of both SIM and phone memory, each requires separate procedure to deal with (Mugisha, 2019).

**e. Database Forensic:** Database forensic is a branch of digital forensic relating to the forensic study following the normal forensic process and applying investigative techniques to database contents and metadata. Cached information may also exist in server RAM requiring live analysis techniques. A forensic examination of a database may relate to the timestamps that apply to the update time of a row in a relational table being inspected and tested for validity in order to verify the actions of a database user. Alternatively, a forensic examination may focus on identifying transactions within a database system or application that indicate evidence of wrong doing, such as fraud. Third party software tools which provide a read-only environment can be used to manipulate and analyze data. These

tools also provide audit logging capabilities which provide documented proof of what tasks or analysis a forensic examiner performed on the database (Mugisha, 2019).

**f. Digital Music Device Forensic:** Large storage capacities and Personal Digital Assistant (PDA) functionalities have made the digital music device a technology that should be of interest to the cyber forensic community. The digital music revolution has also seen the digital music device become a common household item. It is only a short time until they too make a natural progression into the criminal world. It must be determined if current frameworks of cyber forensic science are applicable and to what extent current guidelines can be applied to digital music device forensic (Paranjpe, 2016).

**h. PDA Forensic:** In the modern era, Personal Digital Assistants (PDAs) are getting immensely popular. They are no longer scant electronic devices holding personal information, appointments and address book. Modern PDAs are hybrid devices integrating wireless, Bluetooth, infrared, WiFi, mobile phone, camera, global positioning system, basic computing capabilities, Internet etc., in addition to the standard personal information management features. Investigating crimes involving PDAs are more challenging than those involving normal computers. This is mainly because these devices are more compact, battery operated and store data in memory. A PDA is never really turned off as long as it has sufficient battery power. Evidence residing in PDA is of highly volatile in nature. It can be easily altered or damaged without getting noticed. In order to collect such evidence and ensure its admissibility in a court of law, sound forensic techniques and a systematic approach are needed (Paranjpe, 2016).

### **Steps in Digital Forensic**

Digital forensic involves collection and documentation of valid evidence. This validity depends on its credibility. Credibility of digital evidence can largely depend on its integrity, which can be achieved mainly through proper acquisition and preservation of the evidence with the help of Standard Operating Procedures and standard forensic models (Ahmed, 2017). The digital forensic process has the following five basic stages:

- 1. Identification:** The first step in digital forensic is to identify potential sources of relevant evidence/information (devices) as well as key custodians and location of data.
- 2. Preservation:** After identification the next step is preservation which is the process of preserving relevant Electronically Stored Information (ESI) by protecting the crime or incident scene, capturing visual images of the scene and documenting all relevant information about the evidence and how it was acquired.
- 3. Collection:** Collecting digital information is very much relevant to the investigation. Collection may involve removing the electronic device(s) from the crime or incident scene and then imaging, copying or printing out its (their) content.
- 4. Examination:** In order to effectively investigate potential evidence, procedures must be in place for retrieving, copying, and storing evidence within appropriate databases. This focuses on identifying and locating potential evidence, possibly within unconventional location.
- 5. Analysis:** Analysis is the process of interpreting the extracted data to determine their significance to the case. Analysis may require a review of the request for service, legal authority for the search of the digital evidence, investigative leads, and analytical leads. Analysis aims to draw conclusions based on the evidence found.
- 6. Reporting:** Finally the investigator must finish the document completely and accurately in each step in their investigation from the start to the end.

Digital forensic is not solely about the processes of acquiring, preserving, analyzing and reporting on data concerning a crime or incident. A digital forensic scientist must be a scientist of e-science first and therefore must keep up to date with the latest research on digital forensic techniques (Open Learn, 2011).

### **Responsibilities of Digital Forensic Experts**

According to section-45 of the Evidence Act when the court has to form an opinion upon a point of foreign law, or of science, or art, or as to identity of hand writing or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in question as to identity of

handwriting or finger impression are relevant facts. Such persons are called experts. The opinion of a technical expert before the court of law is very much important because expert opinion can be a useful source of information for assessing reliability, provided it is obtained in a manner that minimizes common sources of bias and ambi



incident handling unit as reactive service after an incident occurs by providing forensic support on evidence included in the incident. Earlier in 2011-12, The Criminal Investigation Department (CID) of Bangladesh Police first introduced Forensic Lab in Bangladesh. Later on, under the project "Enhancing the Cyber Crime Investigation Capability of Bangladesh Police" it was transformed into the state-of-art Digital Forensic Lab which was inaugurated by the Honorable Prime Minister of Bangladesh and the Ambassador of Republic of Korea on the 23rd January 2017. The lab provides forensic support the investigating agencies in the matters of cybercrime & and digital evidences and also gives forensic expert opinion which is presented to the court as judicial evidence. In 2018, the lab provided forensic expert opinions in about 1000 cases involving over 4000 digital evidences (Criminal Investigation Department: Bangladesh Police, 2018).

**Table-01: Statistics of Disposed Cases and Evidence in 2018 by Forensic Lab of Criminal Investigation Department, Bangladesh Police**

Name of Section	2018									
	Previous Yearly Balance		2018 Total Receipt		Total Case & Evidence		2018 Total Disposal		2018 Total Pending	
	Case	Evidence	Case	Evidence	Case	Evidence	Case	Evidence	Case	Evidence
Fingerprint	00	00	841	18569	841	18569	841	18569	00	00
Handwriting	01	301	1244	74370	1245	74671	1238	57662	07	17009
Forged Note & Counterfeit Coin	02	07	198	118731	200	118738	199	118521	01	217
Ballistics	05	27	252	1533	257	1560	245	1454	12	106
Footprint	00	00	05	56	05	56	05	56	00	00
Micro-analysis	04	42	65	160	69	202	68	201	01	01
Cyber Forensic	110	306	998	4241	1108	4547	925	2548	183	1999
Photography	01	08	219	1171	220	1179	218	1162	02	17

Source: (Criminal Investigation Department: Bangladesh Police, 2019)

Digital Forensic team is capable of examining and analyzing all sorts of digital devices seized during the investigation of any case are examined by certified IT forensic personnel in this lab.

Devices include computers, laptops, mobile phones, tabs, hard disks, pen-drives, CD/DVDs, recording devices, digital cameras, VOIP equipment, drones, SIMs, memory sticks, network devices, DVR/NVR (CCTV) etc. Furthermore, forensic expert opinions on Social Media communications and online activities of criminals are also given. The experts of this lab predicted cyber incidents similar to the Bangladesh Bank heist one month before it actually happened. They are now also extensively engaged in training the government agencies and officials, intelligence agencies, banks and research teams etc. regarding cyber security and policy, cyber threat assessment etc. The objective of this LAB is also to build capacity of students and government officials who are keenly interested in cyber security and digital forensic.

### **Role of BGD e-GOV CIRT in Combating with Cyber Security in Bangladesh**

In order to prevent cyber-crimes and to provide remedy for the cyber-crime victim the government of Bangladesh form a special team which is called as Bangladesh Government's Computer Incident Response Team (BGD e-GOV CIRT). This team is acting as the National CIRT of Bangladesh (N-CIRT) currently with responsibilities including receiving, reviewing, and responding to computer security incidents and activities. Under the Government of People's Republic of Bangladesh, BGD e-GOV CIRT reviews and takes necessary measures to resolve the issue with broad cyber security ramifications, conducts research & development and provides guidance on security vulnerabilities (BGD e-GOV CIRT, 2020).

The main objectives of the BGD e-GOV CIRT are:

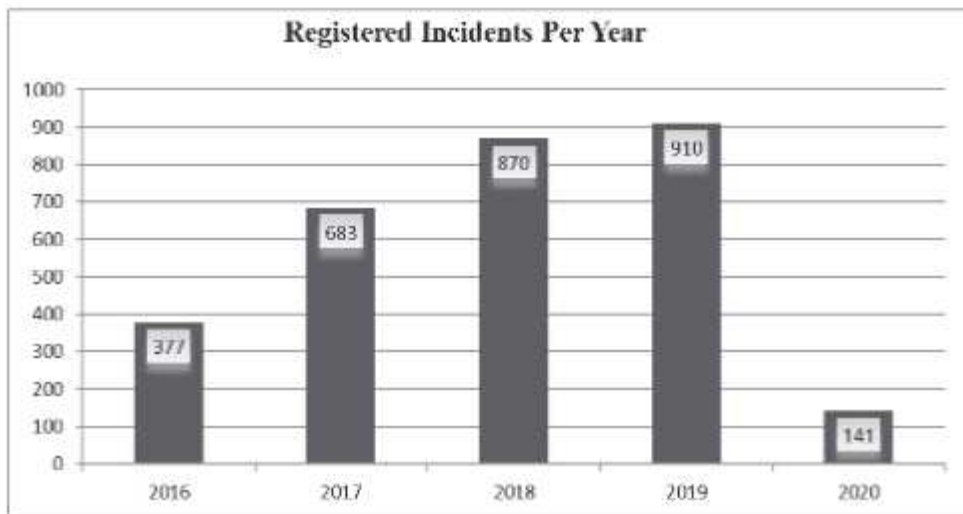
- Manage Cyber Security in Bangladesh Government & Private sector as National CIRT;
- Manage cyber security in Bangladesh government's e-Government network and related infrastructure;
- Serve as a catalyst in organizing national cyber security resilience initiatives (education, workforce competence, regulation, cyber exercises) among various stakeholders;
- Make efforts to establish national cyber security incident management capabilities in Bangladesh (BGD e-GOV CIRT, 2020).

Currently BGD e-GOV CIRT has the following active service components:

- Incident Handling Unit
- Digital Forensic Unit
- Cyber Awareness & Capacity Development Unit
- Cyber Sensor Unit
- Cyber Range Unit
- Cyber Risk Assessment Unit
- Critical Information Infrastructure Unit
- Cyber Audit Unit (BGD e-GOV CIRT, 2020).

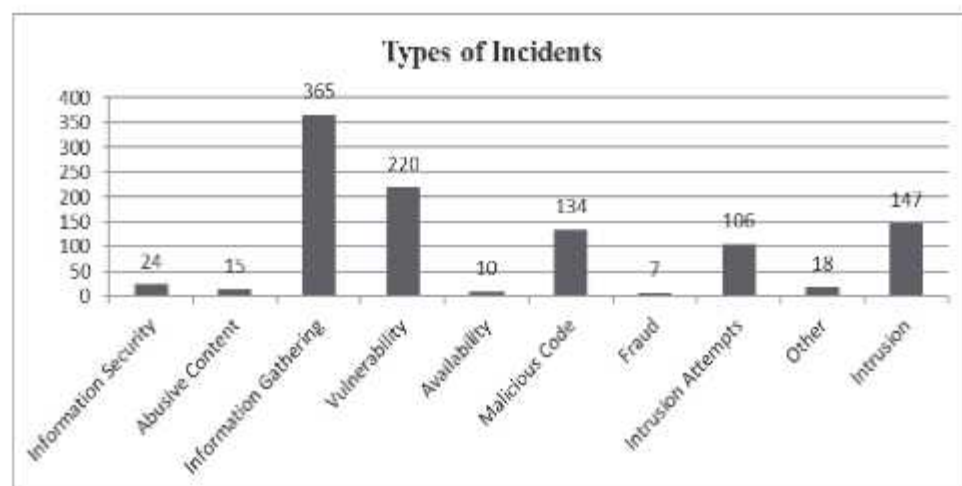
BGD e-GOV CIRT also work with various government units, Critical Information Infrastructures, financial organizations, law enforcement agencies, academia & civil society to help to improve the cyber security defense of Bangladesh. BGD e-GOV CIRT has a very strong tie with international organizations and cyber security communities and working as a focal point of Bangladesh for trans-border cyber issues (BGD e-GOV CIRT, 2020).

**Table-2: Incident Registered in BGD e-GOV CIRT**



Source: (BGD e-GOV CIRT, 2020)

**Table-3: Types of Registered Incidents in BGD e-GOV CIRT**



Source: (BGD e-GOV CIRT, 2020)

### **The Importance of Forensic Evidence in Judicial System**

In the modern criminal justice system, application of forensic evidence plays a vital role to identify the real criminal and the exact crime that has been committed. With the advent of time, the pattern of committing crimes is changing with the changes of science and technology. But the pattern of procuring forensic evidence remains the age old one. Bangladesh is yet to have unified and codified rules of taking forensic evidence in its justice system. Till now, the taking of forensic evidence into cognizance in the criminal and civil trial is wholly a normative practice, where the Judges send cases for forensic examinations according to their discretion. No well-founded rule has been enumerated either in the Code of Criminal Procedure 1898 or the Evidence Act 1872. Section 45 of the Evidence Act explain about expert opinion, Judges may take expert opinion regarding hand writing, finger impressions or on foreign law, science, art, etc. but the amplitude is too narrow from the perspective of today's instances of forensic evidence. As now it deals with DNA, saliva, skin, hair, thumb impressions, blood, semen and footsteps, ballistics, drug samples, paints, explosives, toxins, chemicals and what not. More importantly, it requires a different method or procedure to be procured and adduced before the court.

The development of forensic evidence has tugged to the enactment of DNA Act 2014. This Act has been devised to collect DNA from the citizens of Bangladesh for making a database by setting forensic laboratories in the country but in reality, neither the DNA data was collected nor were the laboratories established. If this would have been done, the autopsy reports of Holey Artisan Attack Case would not take one year to be filed or the murderers of Tonu Murder Case would have been found after the second autopsy. As the second autopsy report of Tonu Murder Case found out three different kinds of semen in her body, it would have been very much easier to find out the murderers and rapists (The Daily Star, 2019). This proves DNA as a mean of evidence is so strong that it can make every rape and murder unveiled along with the misdemeanors if executed appropriately.

In a milestone judgment recently, the High Court Division of Bangladesh Supreme Court has banned 'Two Finger Test' in pursuance of a writ petition but Court did not include the use of rape-kits to examine the rape victims. In the absence of rape-kits, Banani Raintree Hotel Rape Case remains unsolved as the experts are unable to procure physical evidence. There are a lot of cases unsolved only because the practice of forensic evidence is inappropriate and nearly less-existent in Bangladesh (The Daily Star, 2019).

### **Admissibility of Digital Evidence in Bangladesh**

The impetuous evolution of information and communication technologies over the past few years has revolutionized our daily life. In the past, the law of evidence traditionally relies on paper records, oral testimony and other kinds of physical objects. Due to the advancement of technology in nowadays courts have struggled with the traditional rules of evidence (Ahmed, 2017). The concept of digital evidence was first introduced in The UNCITRAL Model Law on Electronic Commerce, 1996. In Bangladesh, the Information and Communication Technology Act-2006 was established and this Act primarily provides legal recognition for transactions carried out by means of electronic data exchange, and other means of electronic communication. However, special laws like the Digital Security Act of 2018 have been enacted to deal with the issues of relating to digital evidence and etc.

Digital evidence is probative information stored or transmitted in digital species like data, photograph, audio, video, DVD, memory card, hard disk, e-mail, telegram, telex. The laws on criminal procedure in Bangladesh, such as, the Evidence Act of 1872 and the Code of Criminal Procedure (CrPC) 1898 prescribe no explicit provision recognizing or approving of its admissibility into judicial proceedings but contain scope of judicial interpretation which may allow for the same. The words “any matter expressed or described upon any substance by means of letters, figures or marks” under the elucidation of “Documentary Evidence” as codified in section 3 of Evidence Act, section 3(16) of General Clauses Act and section 29 of Penal Code can be interpreted to include digital evidence, since the word “matter” is a term of the widest amplitude. Judicial interpretation articulates that digital evidence is an amplification of matter expressed or described upon digital substance by means of letters, figures or marks and inclusive of material and secondary evidence. It verbalizes that the other forms of digitalization have the same legal entity. If question as to authentication and tampering of digital evidence arises, the law prescribes gateway to remove any sort of doubt. Expert opinion rule under section 45 of the Evidence Act provides the scope to seek expert opinion of science. Search and examination rule of section 165 and 161 of the Code of Criminal Procedure empower the Investigating Officer to attach anything and examine its maker. This procedure may be followed to cross-examine the makers of the documentary evidence. In the *Biswajit murder case*, it was held that video footage was officially handed over to Investigating Officer under a seizure list; so, its recording was authenticated *ipso facto*. Judicial interpretation supports that there is no bar to the admission of digital evidence. Therefore, the court of law should follow a strategic way to admit digital evidence. If the prosecution proposes digital evidence or the trial court finds its existence in oral evidence adduced thereon or if it refers to a fact which could be perceived by any other sense or in any other manner, it must be part of the prosecution witnesses (*The Daily Star*, 2019).

Though digital evidence may be admissible under the present law, due to the rapid growth of technology and the complex nature of cyber-crime, the law should be updated on a regular basis to meet the needs of the time.

## Conclusion

One thing is evident that the vulnerability level of cyber space is increasing with each passing days in Bangladesh. To allay the impact of cyber threats, legal advancement in technology is very much essential. In the above circumstances, digital forensic can plays a vital role in the criminal justice system in Bangladesh. Evidence of most of the types of crime are increasingly found in digital devices that either the perpetrator or the victim used. As a result of this potential evidence which did not exist in the past, investigators of conventional crimes increasingly need to consider any digital evidence that may be available. The problems facing the digital forensic investigator will continue to challenge CID (Criminal Investigation Department) of Bangladesh police, however. These problems are the result of increasing workloads due to the increased number of devices that may be of relevance and their increased storage capacity. In addition, the issue of one's right to privacy will continue to challenge digital forensic investigators as well because digital forensic is a rapidly growing technology for examining the contents of computers and digital devices which raises many challenges to conventional notions of privacy because it involves a considerably more detailed search of digital data than is possible with other techniques, and it can be done surreptitiously (Rowe, Neil. 2016). As the digital forensic discipline continues to mature, those in the criminal justice system will more readily understand and accept the contribution it can make to the discovery and production of evidence.

## References

Ahmed, Z. (2017) *Cyber Law in Bangladesh*, Hasan Law Books, Dhaka, Bangladesh.

Admissibility of digital evidence, *Daily Star*, August 27, 2019, retrieved 21 January 2020, <https://www.thedailystar.net/law-our-rights/news/admissibility-digital-evidence-1790917>

Annual Report 2018 (BGD E-GOV CIRT Annual Report, (2019) BGD e-GOV CIRT, retrieved from <https://www.cirt.gov.bd/wp-content/uploads/2019/06/Annual-Report-2017-2018-v3.pdf>

Terms of Reference For Digital Forensic Analyst (2018),  
retrieved 21 January 2020,  
[http://lict.gov.bd/uploads/file/notice\\_5a68394e232e4.pdf](http://lict.gov.bd/uploads/file/notice_5a68394e232e4.pdf)

Annual Report 2018-19-Tata Consultancy Services, retrieved 11  
January 2020,  
<https://www.tcs.com/content/dam/tcs/investor-relations/financial-statements/2018-19/ar/annual-report-2018-2019.pdf>

Bangladesh: Act 46 of 2018, Digital Security Act [Bangladesh],  
8 October 2018, retrieved 11 January 2020  
<https://www.refworld.org/docid/5d498ecc4.html>

Bhattathiripad, P. Vinod (2015) Judiciary friendly software  
piracy forensics with POSAR, retrieved 25 Aug. 2020  
<https://shodhganga.inflibnet.ac.in/bitstream/10603/35989/2/cha-pter2.pdf>

Cyber attacks continue to rise in Bangladesh, *Financial Expert*,  
February 06, 2019, retrieved 21 January 2020,  
<https://thefinancialexpress.com.bd/sci-tech/cyber-attacks-continue-to-rise-in-bangladesh-1549427552>

Common Vulnerabilities in Cyber Space of Bangladesh (n.d.)  
retrieved 11 January 2020,  
<https://www.cirt.gov.bd/common-vulnerabilities-in-cyber-space-of-bangladesh/>

Digital Forensic Lab (n.d.) retrieved 21 January 2020,  
<https://www.cirt.gov.bd/digital-forensic-lab/>

Digital-forensics, (n.d.-a) retrieved 24 August 2020,  
<https://digitpol.com/digital-forensics/>

Digital-forensics, (n.d.-b) retrieved 24 August 2020,  
<https://www.phanas.com/digital-forensics/>

Digital Security Act, 2018 English Version - BGD e-GOV CIRT  
retrieved 21 January 2020,  
<https://www.cirt.gov.bd/wp-content/uploads/2018/12/Digital-Security-Act-2018-English-version.pdf>

Hate Crime in Bhola, *Daily Star*, October 20, 2019, retrieved 21  
January 2020,



<https://www.thedailystar.net/country/mayhem-over-facebook-post-in-bhola-1816327>

ICT Act 2006 Bangladesh English, retrieved 11 January 2020, <https://www.scribd.com/document/302232109/ICT-Act-2006-Bangladesh-English>

IT Forensic Section (n.d.) Criminal Investigation Department: Bangladesh Police, retrieved 10 January 2020, from [https://cid.gov.bd/site/content\\_view/it\\_forensic\\_section](https://cid.gov.bd/site/content_view/it_forensic_section)

Kabir, S. A. (2018) The fascinating world of digital forensics, retrieved 21 January 2020, <https://businessnews24bd.com/the-fascinating-world-of-digital-forensics/>

Lab Statistics (n.d.) Criminal Investigation Department: Bangladesh Police, retrieved 10 January 2020, [http://www.cid.gov.bd/site/content\\_view/forensic\\_lab\\_statistics](http://www.cid.gov.bd/site/content_view/forensic_lab_statistics)

Mugisha, D. (2019) Role and Impact of Digital Forensics in Cyber Crime investigations. *International Journal of Cyber Criminology*, 26 March 2019, vol. 47, no. 3, retrieved 21 January 2020, [https://www.researchgate.net/publication/331991596\\_ROLE\\_AND\\_IMPACT\\_OF\\_DIGITAL\\_FORENSICS\\_IN\\_CYBER\\_CRIME\\_INVESTIGATIONS](https://www.researchgate.net/publication/331991596_ROLE_AND_IMPACT_OF_DIGITAL_FORENSICS_IN_CYBER_CRIME_INVESTIGATIONS)

Novak, M., Grier, J. & Gonzales, D. (2018) 'New approaches to digital evidence acquisition and analysis', retrieved, 21 January, 2020, <https://nij.ojp.gov/topics/articles/new-approaches-digital-evidence-acquisition-and-analysis>

Open Learn (2011) Digital forensic, retrieved 10 January 2020, <https://www.open.edu/openlearn/science-maths-technology/digital-forensic/content-section-4.1>

Paranjpe, P. (2016) Branches of Digital Forensic, blog post, retrieved 10 January 2020, <http://prateek-paranjpe.blogspot.com/p/branches-of-digital-forensic.html>

Sims, B. H., Koehler Wiedlea, A. & Wilson, G. D. (2008) 'Expert opinion in reliability', *Encyclopedia of Statistics in*

*Quality and Reliability*, retrieved 25 August 2020, <https://onlinelibrary.wiley.com/doi/abs/10.1002/9780470061572.eqr110>

Rabbi, A. R. (2019) Man accused of hacking 200 FB accounts, arrested. *Dhaka Tribune*, retrieved, 10 January 2020, <https://www.dhakatribune.com/bangladesh/nation/2019/10/03/dmp-cybercrime-unit-arrests-youth-who-hacked-200-facebook-ids>

Rowe, N. (2016) 'Privacy concerns with digital forensics' in *Ethical Issues and Citizen Rights in the Era of Digital Government Surveillance*, retrieved, 23 August 2020, <https://www.igi-global.com/chapter/privacy-concerns-with-digital-forensics/145566>

*The Evidence Act, 1872, (ACT NO.1 of 1872)*, retrieved, 11 January 2020, <http://bdlaws.minlaw.gov.bd/act-24.html>

Tipu, M. S. I. (2019) 3% conviction rate of cybercrime in Bangladesh, *Dhaka Tribune*, retrieved, 25 August, 2020, <https://www.dhakatribune.com/cybersecurity/2019/04/20/3-conviction-rate-of-cybercrime-in-bangladesh>

What is Forensic Science (n.d.) Canadian Society of Forensic Science, retrieved, 20 January 2020, <https://www.csfs.ca/student-zone/student-zone/>

What is Digital Forensics | Phases of Digital Forensics | EC, (n.d.) retrieved, 25 August 2020, <https://www.eccouncil.org/what-is-digital-forensics/>

What does Digital Forensics mean?-Definition from Techopedia (2017) retrieved, 25 August 2020, <https://www.techopedia.com/definition/27805/digital-forensics>

What is Digital Forensics? History, Process, Types, Challenges (n.d.) retrieved, 25 August 2020, <https://www.guru99.com/digital-forensics.html>

# Impacts of Using First Language at the Tertiary Level in ESL Classes: A Study at a Private University

Rakib Uddin<sup>1</sup>

**Abstract:** The research paper aims at exposing the impacts of using mother tongue in English language learning classes. It also shows the reasons and the remedies of using the mother tongue and problems and prospects of using English language in English language learning classes. The author followed mixed method research where both qualitative and quantitative study approaches were applied. The instruments of this study are interviews through questionnaires, opinions, and participant observations. Data were collected from the students and the teachers of Prime University. Major findings of the study exposed that the use of mother tongue hampers the learning process though it has some prospects. The reasons behind the use of mother tongue are; complicated topic, weaker learners, limited knowledge of English, shyness, lack of confidence, hesitations and to avoid monotonousness. The problems usually students face are; vocabulary, being puzzled with some words, grammar structure, lack of practice, pronunciation and foreign accent in case of listening etc. The study recommends some suggestions to ensure a better learning environment for the learners. Both students and teachers are encouraged to avoid their mother tongue in English language learning classes except in case of emergency.

**Keywords:** English language, mother tongue, use, ELLC, problems and prospects.

## Introduction

At the university level, the ESL/EFL students need to achieve an adequate level of academic English competency to graduate from the scheme and therefore teachers should consider not only the requirements of ESL/EFL students but also their academic discipline of study. It is recorded that most ESL/EFL students in their academic skills do not employ the same academic genre between fields (Swales, 2004; Martin, 2003; Moreno, 1997; Bhatia, 1993).

In recent years, the number of graduate students coming from abroad to study at U.S. universities has increased and, in turn, the

---

<sup>1</sup>: Assistant Professor, Department of English, Prime University, Dhaka, Bangladesh  
Email: rakib.us99@gmail.com

demand for ESL/EFL learners' courses aimed at helping ESL students meet the written requirements of different graduate

programs (Ionescu, 2014). Therefore, considering the growing amount of ESL/EFL learners all over the world, it is essential to comprehend the difficulties that ESL/EFL students must concentrate on the academic genre (Hyland, 2009; Lee, 2005; Bhatia, 2004; Mauranen, 1993). Present applied linguistic study suggests that nine linguistic theories in their explanation attribute distinct roles to the mother tongue (L1) and the linguistic theories that explain different ways in which second language acquisition (SLA) is developed (Ionescu, 2014). In addition, Norton (1995) stated that ESL/EFL students' mother tongue, identity and culture are entangled with their target language.

The notion of the impact of the mother tongue on the second language has been discussed by various academics. The literature in this document highlighted numerous problems concerning the impact of the mother tongue on the second language debated from a worldwide perspective. This literature helped to ground the scientist with data that would help him interpret the results (Atetwe, 2013). Corder (1981) notes that individuals already have a mother tongue (L1) when learning a second language. He also noticed that second language (L2) uses the rules they have learned and understood in the mother tongue. As a consequence, individuals create practices in the second language to use the laws of the mother tongue and thus make mistakes. For this research, these results are essential because the investigator needs to determine the impact of mother tongue on the development of English (second language) abilities and thus English performance.

McLaughlin (1990) states that there is an impact between the first and second languages because acquiring one's mother tongue provides one a certain amount of routine or experience, strategies and met cognitive abilities that can be generalized to subsequent languages, but there are also language-specific limitations in L2 perception and understanding. United Nations Educational, Scientific and Cultural Organization (UNESCO, 1953) for psychological, sociological and educational reasons, they support the use of mother tongue. Education in the mother tongue is endorsed by educators because of its applicability to a child's cognitive development. Stubbs (1996) argues that second-language reading issues emanate from insufficient

second-language understanding, as the reader may lack sufficient ability to select signs that will allow him to predict or guess correctly. It is also asserted that people with mother tongue skills will also have second language skills. According to Cummins (2000), in order to do well in English tests, learners need to have control of formal English. They also claim that by using genuine language, language develops. This is a clear sign that their written English will be significantly affected if learners commonly use their mother tongue.

Corder (1981) demonstrates that "the learner will borrow or replace phrases from the mother tongue when a second language learner is under pressure". Lado (1995) believes that grammatical structure opens the way for a comparison between the grammatical structure of the foreign language and that of the native language in order to discover the students' problems in learning the foreign language. Lado (1995) also claims that the teacher who made comparisons between the foreign language and the students' indigenous language will understand better what the issues are and will be able to provide them while teaching. According to Dulay and Burt (1977) difficult second language teaching was the consequence of interference with the learning of fresh habits from old habits. Hence the old habits are those of the mother tongue while those of the second language are the learned habits. The higher the variations between the two languages, the greater the difficulty will be created and more mistakes will be made.

Language learners often make syntax and pronunciation mistakes that are believed to result from the impact of their L1, "such as inappropriately mapping their grammatical patterns to the L2, pronouncing certain sounds wrongly or with difficulty, and confusing vocabulary objects known as false friends" (Krashen, 1985, p. 58). Krashen (1985) also sees the development of language as a subconscious process; language acquirers are not conscious of language acquisition. When kids obtain their mother tongue, this is shown. The acquirers generally do not know the language laws. Essentially, this is informal language learning. The second way to develop second language skills is through language' learning'. Asher (1986) suggests that as a kid develops control of his native language many elements of perception and manufacturing become more and more fixed, he loses much of the flexibility that he had to make sounds that are not in the language around him; he quickly tends to hear all sounds in terms of his own language's

phonological scheme.

The region's literature has been discussed. This is essential because it gave mother tongue perceptions to the research and its impact on English. Studies undertaken across the region provide comparative methodologies to this research that helped make this research better. Code-switching studies given a comprehension of how code-switching offers the prevalence of mother tongue use (Atetwe, 2013). Adebayo (2008) discovered that in Junior School Certificate Examination in Western Nigeria, mother tongue affects the achievement of the learners in English language. He proposes that English language be used as a means of communication within and outside the classroom, and that both educators and learners strive to enhance their language skills, which will eventually lead to improvement. The research by Adebayo does not explicitly indicate the extent to which mother tongue affects performance; this was intended to identify what Adebayo did not capture in his research by evaluating the extent to which mother tongue affects English performance.

It is essential to verify how learners use both written and spoken language to create sense of their own life and what they learn in college, according to Asher (1986). Therefore, this may suggest that educators need to check out the use in a college of the kind of language student. United Nations Educational, Scientific and Cultural Organization (2006) claim that their mother tongue is the best medium for teaching a kid. However, due to the many mother tongues available, it is not feasible to teach in schools (particularly secondary schools) using mother tongue in the Kenyan context.

One misconception is that many bilingual learners seem to have limited academic successes, with bilingualism being the attribute of responsibility (Schumann, 1990).

### **Literature Review**

This section reviews literature from around the world, regional and local. It describes arguments for mother-tongue use and arguments against mother tongue use. It also explores the literature on the impact on English (second language) of mother tongue (mother tongue) and thus English efficiency.

The literature is criticized and knowledge gaps identified. The

notion of the impact of the mother tongue on the second language has been discussed by various academics. The literature in this document highlighted numerous problems concerning the impact of the mother tongue on the second language debated from a worldwide perspective. This literature helped to ground the scholars with data that would help them interpret the results (Atetwe, 2013). The impact of similarities and differences between the target language and any other language earlier obtained (Odlin, 1989).

The transfer is an instrument used to account for mistakes that genuinely happen or to justify them. He further asserts that transfer is the foundation on which to predict which patterns will be learned more easily in the second language (L2) and which will be more troubling. From this point of perspective, the assumptions are: the likelihood of second language teaching issues happening will increase proportionally to the linguistic differences between mother tongue (L1) and L2- linguistic differences resulting in negative transfer or interference. The second hypothesis is that the likelihood of L2 learning issues happening declines in proportion to the lack of linguistic differences between L1 and L2- the lack of linguistic differences results in positive transfer or facilitation. This is therefore crucial for this research because the investigator tried to find out if the distinction in mother tongue affects the English output (Wardhaugh, 1970).

Corder notes that they already have a mother tongue (L1) when individuals learn a second language. He also noticed that second language (L2) uses the rules that they have learned and understood in the mother tongue. As a result, people develop second-language methods to use first-language legislation and therefore make errors. These findings are crucial for this study because the researcher needs to determine the effect of mother tongue (mother tongue) on the growth of English (second language) skills and therefore English performance (Corder, 1981).

Research conducted in the native language area shows that the native language interferes with the target language. The problem of interference has been discussed by various academics (Atetwe, 2013). Dulay and Burt (1974) regard interference as the automatic transfer, owing to habit, of the mother tongue surface structure to the target language surface. Lott (1983) defines interference as 'mistakes in the use of the foreign language by

the learner which can be traced back to the mother tongue'. Ellis (2001) relates to interference "as the transfer he says is ' the effect that the L1 of the learner exerts on the purchase of an L2.' He claims that transfer is controlled by the perceptions of learners about what can be transferred in teaching from L2.

According to Ellis (2001) in studying a target language, students build their own provisional laws using their L1 understanding, but only when they think it will assist them in the assignment of teaching or when they have become adequately skilled in the L2 to make it possible to transfer it. Therefore, this research attempted to determine the impact of mother tongue (L1) on English (L2) development. Teachers and students' perception of the impact of mother tongue on English was attempted as to whether they believed that mother tongue affected English output. McLaughlin (1990) states that there is an impact between the first and second languages because acquiring one's mother tongue provides one a certain "routine" or experience, strategies and meta-cognitive abilities that can be generalized to later languages, but there are also language-specific limitations in L2 perception and comprehension.

It is essential to verify how learners use both written and spoken language to create a sense of their own lives/life and what they learn in college, according to Asher (1986). Therefore, this may suggest that educators need to check out the use in the college of the kind of language student. Stubbs (1996) argues that second-language reading issues emanate from insufficient second-language understanding, as the reader may lack sufficient ability to select signs that will allow him to predict or guess correctly. It is also asserted that people with mother tongue skills will also have second language skills.

According to Cummins (2000), in order to do well in English tests, learners need to have control of formal English. The phenomenon was studied by Corder (1981) and the word transfer questioned. He indicates that as a neutral and wider word, mother tongue influences what has been most frequently referred to as transfer. Lado (1995) believes that the grammatical structure opens the way for a comparison between the grammatical structure of the foreign language and that of the native language in order to uncover the students ' issues in studying the foreign language. Second language teaching difficulties were the consequence of interference from old habits in learning fresh habits, according to Dulay and Burt (1977). Hence the old habits are those of the mother tongue while those of



the second language are the learned habits. The higher the variations between the two languages, the greater the difficulty will be created and more mistakes will be made.

According to Krashen (1985), affective factors in second language acquisition play a facilitative but non-causal function. Motivation, self-confidence and anxiety are among these factors. Krashen (1985) also argues that highly motivated, self-confident students, a strong self-image, and a low level of anxiety are better equipped for second language acquisition achievement. Low motivation, low self-esteem, and weakening anxiety can merge to form a mental block that prevents the acquisition of comprehensible input. Krashen (1985) further sees the development of language as a subconscious process; language acquirers are not conscious of language acquisition. When kids obtain their mother tongue, this is shown. The acquirers generally do not know the language laws. Essentially, this is informal language learning. The second way to develop second language skills is by studying a language.

Kamisah (2009) indicates that code-switching takes place when an individual who is bilingual alternates with another bilingual person between two languages during his / her classroom lecture. It can be said that an individual who is bilingual is one who can interact in a second language to variable degrees. This sort of modification, or code-switching, between languages happens frequently among bilinguals and can take a number of distinct forms, including altering sentences, successive sentences from both languages, and switching to a lengthy narrative. In this research, the investigator attempted to determine the incidence of code-switching in the context under research by both educators and students.

The literature here outlined local perceptions of the use of mother tongue and its impact on English performance. Since the research attempted to discover educators and students' perceptions, this literature played an important role in a comparative drawing. In addition, local literature helped identify study gaps for the scientist. English-only proponents also argue that using L1 in the classroom is not consistent with SLA theories advocating altered input and negotiation as a means of teaching in L2 (Polio, 1994). The use of the mother tongue of learners by both learners and educators in certain situations improves the understanding and teaching of L2 (Cook, 2001; Machaal, 2012; Wells, 1999). The use of L1 serves a number of

purposes, particularly at the start stages, to guarantee that everyone knows fully what to do (Atkinson, 1987; Cole, 1998; Tang, 2002).

Miles (2004) tried to show two points. First, using L1 in the classroom does not hinder learning, and secondly, L1 in the classroom has a facilitating function to play and can effectively assist learning. In an effort to substantiate these theories, two tests were conducted. For both learners and educators to learn and teach English, Afzal (2013) performed a study on using L1 in EFL as a scaffolding method. The majority of educators used L1 in L2 courses based on the results of this research. It is highly essential for students to be comfortable with their teaching setting, according to Krashen (1985). L2 learners will have better access to input in particular in a pleasant teaching setting. The acquisition is inhibited in a setting in which L2 students are compelled to generate language.

### **Objectives of the Study**

The sole purpose of the study is to find out the impacts of using mother tongue in the English language learning classes and the other objectives are

1. To find out the reasons behind the use of mother tongue in English language learning classes and to get the remedies
2. To find out the pros and cons of using the English language instead of mother tongue in English language learning classes

### **Research Questions**

Based on the background of the research, the research question can be formulated as follows:

1. What are the impacts of using the mother tongue in English language learning classes?
2. What are the reasons behind using the mother tongue in English language learning classes?
3. What are the problems of using the English language instead of the mother tongue in English language learning classes?
4. What are the prospects of using the English language instead of the mother tongue in English language learning classes?

## **Methodology of the Study**

The author followed mixed-method research where both qualitative and quantitative study approaches were applied. The procedures of data analysis were also qualitative and quantitative study approaches too. The instruments of this qualitative study are interviews through questionnaires, opinions, participant observations, interpretation and descriptive analysis. There was one questionnaire made for the teachers, with two types of questions. One is a semi-structured interview questionnaire for students and another one is open-ended. And there was another questionnaire made for the students, with two types of questions. One is a semi-structured interview questionnaire for students and another one is open --ended. Validity, reliability and practicality are the major three aspects of any questionnaire and these components make the questionnaire more authentic and applicable. The model of Gardner (1985), Kenning (2001) and Dr. M Maniruzzaman (2003) were consulted for assessing the reliability, validity and practicality of the questionnaire for the participants.

Data and statistics information for the study were collected from the students and teachers of Prime University. The researcher visited different classes, talked to the learners, observe them closely, and find out their problems. The researcher also talked to the teachers. He is keen to hold seminars on this issue. He has consulted with his/her colleagues and prominent educationists. Exactly thirty different students were selected for the study from five different departments like, the Department of English, the Department of Law, the Department of Business Administration, the Department of Electrical and Electronics Engineering and the Department of Computer Science and Engineering. Six respectable teachers were also selected for the study from the Department of English and Prime University Language School. The research was conducted among EFL students at Prime University who are studying in deferent semesters of English department at Prime University and the students who completed their two semesters in various departments like; Department of Law, Department of Business Administration, Department of Electrical and Electronics Engineering, Department of Computer Science and Engineering.

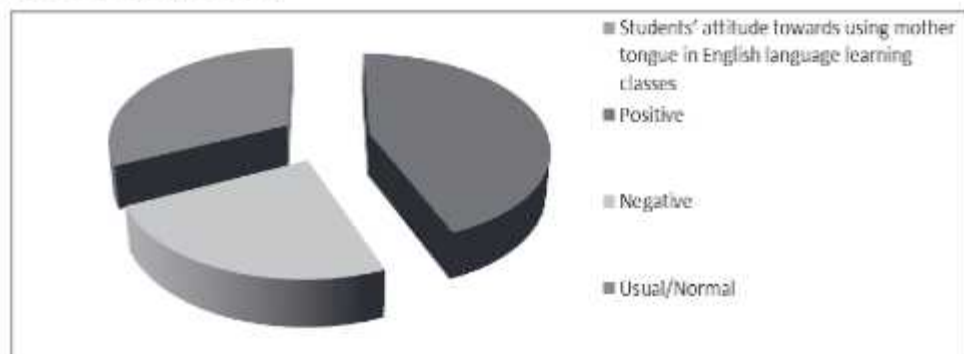
## Analysis of the Study

### Use of Mother Tongue in English Language Learning Classes

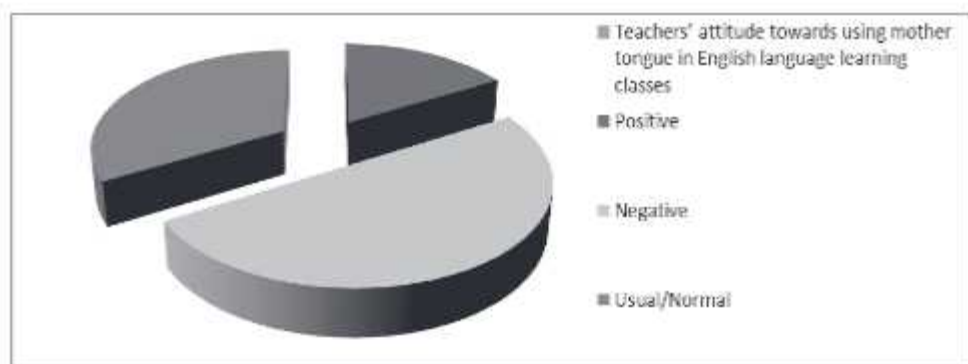
#### a. Students' approach/opinion towards using Mother tongue in English Language Learning Classes:

When the students were asked about the use of the mother tongue in English language-learning classes some of them opined in favor of using mother tongue in English language learning classes. The students stated like "The use of mother tongue in English language learning classes is necessary and helpful, it is very easy to gather English knowledge and it is a very easy way to acquire knowledge and remove weaknesses by using mother tongue.

But most of them opined against it. The students stated like "As an English language-learning class it is mandatory to use English otherwise the students will not be able to apply them in their real life. Some said it is not necessary to use the mother tongue, it must be avoided after a certain period of time, English is the most important language so in the class the learners have to use English to learn it properly, they should only use the English language in English language learning class, in English language class English should be the first priority/language, when there is about English language class English should be the first priority/language, as students of English it is always good for them and the use English language in English language learning classes is necessary because of its excellent application in our real-life situation.



Students' attitude towards using mother tongue; source: field survey



Teachers' attitude towards using mother tongue; source : field survey

### **b. Teachers' Perception about using Mother tongue in English Language Learning Classes**

When the teachers were asked about the use of the mother tongue in English language learning classes some of them opined in favor of using mother tongue in English language learning classes and some of them differ. The teachers stated like:

1. The use of the mother tongue in English language learning classes is important but not a must.
2. Using mother tongue in the classroom impacts negatively because when the teachers use target language the students subconsciously adapt their mind and brain in that language.
3. Sometimes it is helpful when the level of students is very low and also to motivate them is helpful.
4. It can be used for only students' requirements.
5. It is better not to use the mother tongue in English learning classes.
6. Sometimes the use of the mother tongue helps the native students to retain their confidence and comfort.

### **c. Duration and Causes of using Mother tongue in English Language Learning Classes**

When the students were asked about the reasons behind using the mother tongue in English language learning classes the students affirmed some important reasons. These are:

1. The majority of students don't understand without the help of the mother tongue
2. Sometime students don't understand English language so the teacher uses the mother tongue

3. To understand any complicated topic
4. To communicate with weaker learners
5. Sometimes the learners can't understand teachers' lectures
6. When a learner is not comfortable enough, they use mother tongue in the classes
7. When learners have limited knowledge of English
8. Because of shyness
9. Lack of confidence to use English
10. Less motivation from the teachers
11. Family and background facts

When the teachers were asked about the reasons behind using the mother tongue in English language learning classes the teachers acknowledged some important reasons. These are:

1. To make the meaning clear and better understandable
2. It has several reasons like students' demands, teachers' irresponsible attitudes and to make the class more lively
3. To reach the lowest level of the students, to avoid monotonousness, to motivate, to make things more clear
4. When students cannot understand the teachers have to use the mother tongue
5. Teachers' lack of experience and students' weaknesses are the reasons
6. The main reason is to make the native students feel at home and sometimes it helps them better understand instructions

When the students were asked about the duration of using the mother tongue in English language learning classes, the students replied like.

1. In the maximum of the classes
2. Only 15 minutes out of 90 minutes they use their mother tongue in English language classes
3. Few time (the qualifier 'few' does not match fit with the uncountable noun 'time')
4. Sometimes
5. Almost all the time
6. As long as they can
7. Sometimes when they don't understand the meaning of words or something
8. Some of the students try to use English most of the time when they attend classes they try to speak with their friends in English not their mother tongue.
9. By reading, speaking and listening they learn the language in English language learning classes

When the teachers were asked about the duration of using the mother tongue in English language learning classes, they replied like.

1. Sometimes 40% of the class duration sometimes 20% it depends on the necessity
2. Almost 1/3 of the whole class hour or if it is said specifically 30 minutes
3. The very little amount of time
4. For sometimes
5. 5% of the total time of the classes
6. A teacher only uses the mother tongue to give instructions if there is any and this is also followed by English otherwise he/she tries not to use their mother tongue at all

When the students were asked about the duration of using the mother tongue in English language learning classes of their teachers, they replied like.

1. In every class when needed
2. 90% in English 10% in mother tongue
3. Every time when needed
4. Teachers always talk in English
5. Sometimes they use Bangla
6. Most of the time they use English
7. Most of the time they talk in English
8. As long as the students can understand his or her lectures
9. Maximum times in English
10. Maximum times but when the students don't understand they use Bangla
11. Around 30minutes
12. Around 50minutes
13. Most of the time in English
14. All-time in English

When the teachers were asked about the duration of using the mother tongue in English language learning classes of their students, they replied like.

1. About 50%
2. Almost half of the time
3. They want to use most of the time but the teachers allow them for the very specific purpose
4. They want to speak in the mother tongue but the quantity decreases as per the class numbers

5. 10% of the total time of the classes
6. If the students feel to express any personal and complicated ideas they use their mother tongue

**d. Problems of using target language instead of Mother tongue in English Language Learning Classes**

Some students don't face any problems but some face problems. The problems they face are given below:

1. When the students use the mother tongue maximum of the class then it makes many obstacles to learn the target language.
2. They don't know how to talk
3. They face problems talking with others
4. They face problems because sometimes They cannot understand
5. Sometimes They can't understand teachers' lectures
6. Sometimes They cannot speak frequently
7. Vocabulary
8. Shyness or coyness
9. Hesitation
10. Lack of confidence
11. Grammar structure
12. Lack of practice
13. Sometimes They get puzzled with some words
14. They face problems They cannot understand English pronunciation and grammar
15. They have faced many sorts of problems especially in listening classes
16. They face a problem that is vocabulary because they can't memorize.

Some teachers don't face any problems but some face problems. The problems they face are given below:

1. Some students don't understand.
2. Some of the students don't understand properly, they gossip in the class, they start avoiding the classes, they become part into two groups, better students become attracted and weaker not
3. It hampers the harmony of using TL
4. They fail to understand the topic and becomes de-motivated
5. The level of the students are not the same, many of them are weak and shy
6. They face little problems because they try to speak in the easiest pitch with simple sentences so that they understand easily.



7. They use the easiest words but students fail to understand better pronunciations

#### **e. Prospects of using target language instead of Mother tongue in English Language Learning Classes**

When the students were asked about the prospects they feel when they use the target language in the class. They replied:

1. When we use the target language in the class then we can learn many other skills it makes strong our reading, writing and speaking skills
2. It makes them more confident
3. It makes them smart
4. It helps them to have a positive attitude from their teachers
5. They feel very good when they use the target language in the class.
6. Sometimes they feel shy but it's ok
7. It will be good for their fluency in English
8. They feel very pleasure
9. They feel very comfortable
10. It will be good for my fluency in the English language
11. It will create job opportunities for them in the market

When the teachers were asked about the prospects they feel when they use the target language in the class. They replied:

1. If felt necessity learners must learn through the target language
2. If each and every teacher use TL in the class it will bring massive changes in them, they will do better in the job market
3. Same as the problems (It hampers the harmony of using TL)
4. Students may have true and proper knowledge of the target language
5. They feel that they have made an English environment and the students have started to enjoy the classes
6. Students get the opportunity to stay in an English speaking environment they try to respond as per capacity it is a good prospect

#### **f. Impacts of using Mother tongue in English Language Learning Classes**

Students have shown some impacts of using the mother tongue in English language learning classes. These are:

1. By using mother tongue sometimes they can understand word meaning easily

2. To have a clear understanding of any topic.
3. It helps to improve their English skills.
4. It has negative impacts
5. It is hampering their English.
6. It has impacts on speaking, writing, listening skills
7. By using the mother tongue in the class they can improve their vocabulary of English.
8. It gives them much improvement.
9. Getting a chance to use their mother tongue makes them regular in the class
10. It is comfortable and improves their skills

Teachers have shown some impacts of using the mother tongue in English language learning classes. These are:

1. Students don't feel confident and comfortable using the target language
2. It becomes easy to provide knowledge, theories become easier, but target language gets weaker
3. The students have not bound always so that they feel free whatever language they want to use which is harmful
4. Sometimes students can easily understand the topic
5. The students feel better they can express their limitations
6. Students feel relaxed when they use their mother tongue but they feel stressed in using English as a second language

#### **Students' Overall View of English Language Class**

<b>Question</b>	<b>Yes</b>	<b>No</b>	<b>Sometimes</b>
1. Do you enjoy using your mother tongue in ESL/EFL classes?	44%	20%	36%
2. Do you use your mother tongue in case of inability of using English especially in class?	68%	8%	24%
3. Do you feel free/easy using your mother tongue in ESL/EFL classes?	52%	12%	36%
4. Does your teacher use your mother tongue in English language learning classes?	84%	00%	16%
5. Is there any benefit you feel of using your mother tongue in English language learning classes?	64%	16%	20%
6. Are you allowed to use your mother tongue in your English classes?	76%	24%	00%

7. Are you encouraged to use the English language in your English classes?	92%	00%	8%
8. Are you discouraged to use your mother tongue in your English classes?	36%	40%	24%

### Teachers' Overall View of English Language Class

Question	Yes	No	Sometimes
1. Do you enjoy using your mother tongue in ESL/EFL classes?	00%	17%	83%
2. Do you use your mother tongue in case of students' inability of using English especially in the class?	66%	00%	34%
3. Do you feel free/easy using your mother tongue in ESL/EFL classes?	00%	66%	34%
4. Do your students use your mother tongue with you in your in English language learning classes?	50%	00%	50%
5. Is there any benefit you feel of using your mother tongue in	33%	17%	50%

### Suggestions about Using Mother Tongue in English Language Learning Classes

#### a. Students' proposals about using Mother tongue in English Language Learning Classes

##### Students' proposals/suggestions are:

1. The suggestion is not to use mother tongue in the English Language Learning class
2. In English language learning classes, mother tongue is to use just when needed not always
3. To improve English they have to avoid their mother tongue in the class
4. Using FL as little as they can
5. Both students and teachers should not use their mother tongue
6. They have to talk in English with others.

7. It is very important to avoid mother tongue
8. When they cannot understand the topic only then it helps them but they should use the English language in English Language Learning classes
9. They should always speak in English
10. Only the use of English increase students' skills
11. The students should use English in ELL classes this will also increase their skills
12. To cooperate with teachers to use English
13. To gain the knowledge they can use their mother tongue when they don't understand the English statements

**b. Teachers' suggestions about using Mother tongue in English Language Learning Classes**

**Teachers' proposals/suggestions are:**

1. Teachers should try to mitigate the percentages of using mother tongue in the class for better learning as it really hinders the TL learning
2. Never use mother tongue in the class, motivate the students to use TL in and outside the class
3. The mother tongue should not be appreciated, as little as possible, if possible not to use at all
4. Teachers may use the mother tongue for a certain amount of time but not the whole period
5. The teachers should use the target language as much as possible and they should try their level best to remove the students' weakness, shyness and hesitation
6. Sometimes teachers should switch to the mode of mother tongue to retain the concentration but the class should mostly be conducted in TL to encourage the students to believe that speaking in English is a matter of habit not a matter of knowledge.

**Major Findings and Discussions**

The debate over whether English language classrooms should include or exclude students' native language has been a contentious issue for a long time (Brown, 2000, p. 195). The researcher of the present study found that the first language

affects the second language and the respondents opined on both in favor of the use of mother tongue and against the use of mother tongue in English language learning classes. The researcher found some of the issues that are responsible for the applications of mother tongue on English language learning classes. Atetwe, J. A., (2013) found that the use of mother tongue had a negative influence in English performance. It influences the way students write and pronounce in English, hence negatively influencing the performance of English. The researcher found that sometimes the use of mother tongue in English language learning classes is necessary to have a better look and understanding the target language. Both teachers and students agreed that in English language-learning classes it is mandatory to use the English language otherwise the students will not be able to apply them in their real-life situations. They also opined that the use of mother tongue in English language learning classes should be avoided after a certain period of time and English language should be the first priority. The teachers said that it can be used only for students' requirements. Atetwe, J. A., (2013) also suggested that the teachers should come up with teaching methods that are interactive in the English curriculum so as to ensure that students are given an opportunity to interact with each other in English.

Ionescu, I.D., (2014) suggested various pedagogical implications comprising the Linguistic professors' advocacy of their students by using L1 as a bridge for transferring schema to L2, providing specific genre knowledge and reinforcing the writer and audience connection. To discover the reasons behind using the mother tongue in English language learning classes the researcher found that the majority of students don't understand without the help of the mother tongue, to understand any complicated topic, to communicate with weaker learners, when people have limited knowledge in English, because of shyness, lack of confidence to use English, to make the meaning clear and better understanding, students' demands, teachers' irresponsible attitudes and to make the class more lively, to reach the lowest level of the students, to avoid monotonousness, to motivate and to make things more clear etc.

Kheirabadi (2015) said that the acquisition of two or more languages involves positive consequences for meta-linguistic development and the people who had acquired literacy in two languages did significantly better in the acquisition of a third language than performed people from monolingual backgrounds

or those who had not acquired literacy in their home language. Research displayed that the bilinguals scored higher than monolinguals on verbal and non-verbal intelligence tests and indicated a more diversified intelligence structure. In case of the demands of the students, almost half of the class is done in the mother tongue. Sometimes it decreases to 10% of the whole class hour and sometimes it increases to 90%. Even it is also seen that both teachers and students use their mother tongue as long as they can though it varies considering the level of the students and motivations of the teachers usually one-third of the whole class hour is passed using the mother tongue.

Mofareh (2019) argued that the majority of the students were unable to communicate in the English language either correctly or confidently. The percentages which varied between average, weak, and very weak, were attributed to a general weakness in English grammar, vocabulary, syntax, poor fluency in speech, low understanding of overall grammar frameworks, and inaccurate pronunciation. To detect the problems of using the English language in English language-learning classes the researcher investigated and found that some students don't face any problems to use the English language but some face problems. The problems they face are vocabulary, shyness or coyness, hesitation, lack of confidence, being puzzled with some words, grammar structure, lack of practice, can't understand teachers' lectures, pronunciation and foreign accent in case of listening etc. On the other hand, teachers are also facing some challenges like some of the students don't understand properly, they gossip in the class, they start avoiding the classes, they become part into two groups, better students become attracted and weaker not, it hampers the harmony of using the target language, the students fail to understand the topic and become de-motivated, the level of the students are not same and many of them are weak and shy etc.

Sultana (2018) and Solhi (2011) stated about the prospects of using the English language in English language learning classes. To expose the prospects of using the English language in English language learning classes the researcher investigated and found that the students believe if they use the English language in the class which makes them more confident and smart, helps them to have a positive attitudes from their teachers and peers and it makes them feel very comfortable and pleased. It also creates job opportunities for them in the market. On the other hand, the teachers feel that if each and every teacher use the English

language in the class it will bring massive changes in them, they will do better in the job market, students may have true and proper knowledge of the target language and students get the opportunity to stay in an English friendly environment and they try to respond as per their capacity.

### **Recommendations**

Littlewood and Yu (2009) argued that the issue of the balance that teachers should seek between using the target language (TL) and the students' first language (L1) in the second language learning classroom. The researcher collected some suggestions from the teachers and they suggested that mitigating the percentages of using mother tongue in the class for a better learning environment as it really hinders the English language learning. Some said to ban the use of mother tongue in the class, to motivate the students to use the English language in and outside the class. The teachers should use the target language as much as possible and they should try their level best to remove students' weakness, shyness and hesitation. Some teachers stated that they may use the mother tongue in a certain amount of time, as little as possible, if possible not to use at all but not the whole period of the classes and mother tongue should not be appreciated. Some also believe that sometimes teachers should switch to the mode of mother tongue to retain the concentration and comforts of the students but the class should mostly be conducted in English to encourage the students to believe that speaking in English is a matter of habit not a matter of knowledge.

Ostovar and Norouzi (2015) clearly show that, among other things, teachers can use the mother tongue judiciously and reasonably to: arouse a sense of security in learners; build background prior to reading, listening, speaking, and writing tasks and activities; maximize intake by using L1 (first language) to make the input comprehensible; avoid giving learners the feeling of identity-threatened by the total rejection of their mother tongue; and help students with comprehension problems when L2 (second language) fails or is not effective. The researcher collected some proposals from the students and most of the students proposed to avoid the use of mother tongue in the English language learning class. To improve English skills talking in English with others is a must and only the uses of English can increase their skills. It can only be used just when

needed not always, as little as possible. Both students and teachers should not use their mother tongue in the class and students have to cooperate with their teachers to use English for better outcomes. When students cannot understand the topic and to gain the knowledge they can use their mother tongue when they don't understand the English statements only then it will help them.

## **Conclusion**

When the early version of the Direct Method was constructed, language teaching was in its formative years. Although they suggested that both the teachers and the learners should avoid the use of the first language at any cost, they presented no theories or empirical findings in support of their claim; hence, their prescriptions reflected the subjective judgment of the designers rather than their theoretical sensitivity. The use of mother tongue in English language learning classes is one of the major problems which hinder the whole learning process. But from the investigation, the researcher found the reality which is a bit different than the usual concept. The findings of the study exposed that the use of the mother tongue hampers the learning process though it has some prospects. The reasons behind the use of mother tongue are also a bit different as these are: complicated topic, weaker learners, limited knowledge of English, shyness, lack of confidence, hesitations and to avoid monotonousness. The problems usually students face when they start using the target language are, vocabulary, being puzzled with some words, grammar structure, lack of practice, pronunciation and foreign accent in case of listening etc. The study recommends some suggestions to ensure a better learning environment for the learners. Both students and teachers are encouraged to avoid their mother tongue in English language learning classes except in case of emergency. The study has exposed the impacts of using mother tongue in English language learning classes. The paper has also shown the reasons and the remedies of using the mother tongue and problems and prospects of using English language in the English language learning classes. The author has followed mixed-method research where both qualitative and quantitative study approaches have been applied. The instruments of this study were interviews through questionnaires, opinions, and participant observations. Data were collected from the students and the teachers of Prime University.



## References

Adebayo, D. O. (2008) 'The impact of mother tongue on students' achievement in English language in Junior Secondary Certificate Examination in Western Nigeria', *Journal of Social Sciences*, vol. 17, no.1, pp. 41-49.

Afzal, S. (2013) 'Using of the First Language in English classroom as a way of scaffolding for both the students and teachers to learn and teach English', *International Research Journal of Applied and Basic Sciences*, vol. 4, no.7, pp. 1846-1854.

Asher, C. (1986) *Literacy: Teaching and Learning Language Skills*, Oxford Publishing Services, Oxford.

Atetwe, J. A. (2013) '*Analysis of the Influence of Mother Tongue on Students' Performance in English in KCSE in Public Day Secondary Schools in Gatundu District, Kiambu County, Kenya*', The Catholic University of Eastern Africa, Nairobi, Kenya.

Atkinson, D. (1987) 'The mother tongue in the classroom: a neglected resource', *ELT Journal*, vol. 41, no. 4, pp. 241-247.

Bhatia, V. K. (1993) *Analysis Genre: Language Use in Professional Settings*, Longman, London.

Bhatia, V. K. (2004) *Words of Written Discourse: A Genre Based View*, Continuum, London.

Brown, H. (2000) *Principles of Language Learning and Teaching*, Longman, San Francisco.

Cole, S. (1998) 'The Use of L1 in Communicative English Classrooms', *LANGUAGE TEACHER-KYOTO-JALT*, vol. 22, pp. 11-14.

Cook, V. (2001) 'Using the first language in the classroom', *The Canadian Modern Language Review*, vol. 57, no. 3, pp. 402-423.

Corder, S. (1981) *Error Analysis and Inter-language*, Oxford University Press, Oxford.

Cummins, J. (2000) *Language, Power and Pedagogy: Bilingual Children in the Crossfire*, Multilingual Matters Ltd., Clevedon.

Dulay, H. & Burt, M. (1974) 'Natural sequences in child language acquisition', *Researchgate: Language Learning*, vol. 24, no. 1, pp. 37-53.

Dulay, H. & Burt, M. (1977) '*Remarks on creativity in language acquisition*', *Creative Education*, vol. 8, no. 8, pp. 95-126.

Ellis, R. (2001) *Form-focused instruction and second language learning*, Blackwell Publishers, MA, Malden.

Hyland, K. (2009) *Academic discourse: English in a global context*, Continuum, London.

Ionescu, I. D. (2014) 'An Analysis of the Role of First Language In Second Language Acquisition', *Semantic Scholar*, vol. no. pp. Claremont Graduate School and San Diego State University.

Kamisah, A. (2009) '*The Interaction of Language, Topic and Speakers: Code-switching in Classroom Discourse*', pp. 81-95, Peter Lang, Frankfurt.

Kheirabadi, S. (2015) 'Effects Mother Tongue Language on Learning Second Language Learners Elementary School', *IMPACT: International Journal of Research in Humanities, Arts and Literature (IMPACT: IJRHAL)*, vol. 3, no. 7, pp. 81-88.

Krashen, S. D. (1985) *The Input Hypothesis: Issues and implications*, Longman, London & New York.

Lado, R. (1995) *Linguistics across Cultures*, University of Michigan Press, Michigan.

Latu, M. F. (1994) *Factors Affecting The Learning Of English As A Second Language Macroskills Among Tongan Secondary Students*, Edith Cowan University.

Lee, M. (2005) *Uniqueness of Asian Promotion Discourse: A Contrastive Study of Hong Kong Bilingual Text and Native English Text*, in Bragiela-Chiappine & Gotti (eds), pp. 77-101.

Littlewood, W. & Yu, B. (2009) 'First language and target language in the foreign language classroom', *Cambridge University Press*, vol. 44, no. 1, pp. 64-77

- Lott, D. (1983) 'Analyzing and counteracting interference errors', *Education Language Testing Journal*, vol. 37, no. 3, pp. 256- 261.
- Machaal, B. (2012) 'The use of Arabic in English classes: A teaching support or a learning hindrance', *Arab World English Journal*, vol. 3, no. 2, pp.194-232.
- Martin, M. P. (2003) 'A genre analysis of English and Spanish research paper abstracts in experimental social sciences', *English for Specific Purposes*, vol. 22, no.1, pp. 25-43.
- Mauranen, A. (1993) *Cultural Differences in Academic Rhetoric: A Textual Study*, Peter Lang, Frankfurt and Main.
- McLaughlin, B. (1990) *Second Language Acquisition in Childhood*, Lawrence Earlbaum Associates. New Jersey.
- Miles, R. (2004) *Evaluating the use of L1 in the English Language Classroom*, School of Humanities, Centre for English Language Studies Department of English, University of Birmingham.
- Mofareh, A. (2019) *Difficulties Facing Students in English Language Conversation*, King Khaled Military Academy, Riyadh, Saudi Arabia.
- Moreno, A. I. (1997) 'Genre constraints across languages: causal metatext in Spanish and English RAs', *English for Specific Purposes*, vol. 16, no. 3, pp. 161-179.
- Norton, B. (1995) 'Social identity, investment and language learning', *TESOL Quarterly*, vol. 29, no. 1, pp. 9-31.
- Odlin, T. (1989) *Language Transfer: Cross Linguistic Influence in Language Learning*, Cambridge University Press, New York.
- Ostovar, S. A. & Norouzi, S. (2015) 'First language use in teaching a foreign language: theoretical perspectives and empirical finding', *US-China Foreign Language*, vol. 13, no. 9, pp. 615-622.
- Polio, C. (1994) Comments on Elsa Roberts Auerbach's reexamining English only in the ESL classroom, *TESOL Quarterly*, vol. 28, no. 1, pp. 153-161.

Schumann, J. H. (1990) 'Extending the scope of the acculturation / pidginization model to include cognition', *TESOL Quarterly*, vol. 24, no. 4, pp. 667-684.

Sohli, M. (2011) *The Use of First Language in the EFL Classroom: A Facilitating or Debilitating Device*, Istanbul Medipol University.

Stubbs, M. (1996) *Language, Schools and Classrooms*, Methuen, London.

Sultana, S. (2018) *Role of First Language in Second Language Development*, University of Massachusetts Amherst.

Swales, J. M. (2004) *Research Genres: Exploring and Applications*, Cambridge University Press, Cambridge.

Tang, J. (2002) 'Using L1 in the English classroom', *English Teaching Forum*, pp. 36-43.

United Nations Educational, Scientific and Cultural Organization (1953) *The Use of Vernacular Languages in Education*, UNESCO, Paris.

United Nations Educational, Scientific and Cultural Organization (2006) *Challenges of Implementing Free Primary Education in Kenya: Assessment Report*, UNESCO, Nairobi.

Wardhaugh, R. (1970) 'The contrastive analysis hypothesis', *TESOL Quarterly*, vol.4, pp. 123-130.

Wells, G. (1999) 'Using L1 to master L2: a response to Anton and DiCamilla's socio-cognitive functions of L1 collaborative interaction in the L2 classroom', *The Modern Language Journal*, vol. 83, no. 2, pp. 248-254.

## The Consequence of the Conflict between the Text and the Evaluation Process of English at the Higher Secondary Level in Bangladesh

Shorna Akter<sup>1</sup>

**Abstract:** In Bangladesh Communicative Language Teaching Approach (CLT) has been introduced at the Higher Secondary Level and a text book, *English for Today (EFT)* is included in the curriculum with a view to helping the students acquire English language through experience. In EFT book, many activities are incorporated to develop the learners' four skills of English language. But in the testing part, students' reading and writing skills are basically evaluated. So, there is an obvious mismatch between text-objective based activities and testing. This is likely that this dichotomy will create problem in the acquisition of the learners' four skills of the English language following the course-objective of the prescribed text. This small scale study is an attempt to investigate the consequences emanated from the conflict between the text and testing process at this level. The data collected from the text analysis and questionnaire survey with the teachers and the students and the Focus Group Discussion (FGD) among the teachers have been analyzed and tabulated. On the basis of the overall findings, some recommendations are placed here with a view to making the objective more beneficial for the learners.

**Keywords:** Test, evaluation, text, conflict, higher secondary level

### Introduction

In Bangladesh, generally students learn English as a compulsory subject from class I to class XII. The academic performance of the students of the Higher Secondary Level is also satisfactory. Giving importance to communicative competence *English for Today (EFT)* series is incorporated in the curriculum of the students of general education from class I to class XII. The learners are here learning English language from EFT books but they do not significantly achieve expected command of the four skills of the language (Hossain, 2010, p.111). Consequently, when these learners come to the undergrad level for higher studies, they face huge difficulties (Abedin, Khan & Akter, 2009, p. 70). So, this is a problem which should be addressed in

---

<sup>1</sup> Associate Professor, Department of English, Dhaka City College, Dhaka, Bangladesh. E-mail: shorna.akter@gmail.com

terms of both text and testing against the newly included approaches. This paper seeks to offer a study to focus on the impact of the mismatch between the texts and evaluation system of English at the Higher Secondary level in Bangladesh.

### **Purpose of the Study**

The purpose of this study is to find out the consequence of the conflict between the text activities of *English for Today XI-XII and Alim* and the testing system. In other words, this study is an endeavor to address the problems faced by the students of the Higher Secondary level because of the dichotomy between the text book and the evaluation system.

### **Literature Review**

#### ***The CLT Approaches and EFT Text Book at the Higher Secondary Level in Bangladesh***

Grammar Translation Method (GTM) was followed in the English language teaching arena for many years in Bangladesh. For the development of the learners' four skills (reading, writing, speaking and listening) of English language, CLT approach was included in the curriculum (Abedin, 2012, p. 2-3). In support of the CLT approaches, a new series of communicative language book, *English for Today* (EFT) was incorporated in the curriculum, particularly at the Higher Secondary level in 2001 (Siddique, 2004, p. 15). Saha asserts that the aim of EFT text is to help learners develop the four skills of English language and thereby, this text ensures students' development of communicative competence (in Billah, Alam, Sahidullah, Mortuza, Haider and Roy, 2015, p. III). In other words, EFT text is designed to help the learners develop their communicative competence by practicing and experiencing English language in different communicative situations. Putting emphasis on the activities of EFT, Hossain says,

The book provides the learners with a variety of materials, such as reading texts, dialogues, pictures, diagrams, tasks and activities. Using these materials learners can practice all four basic language skills: listening, speaking, reading and writing. They can actively participate in pair or group or individual work. (2010, p. 112)

According to Hossain, though learners are learning English language from EFT text, they do not achieve proficiency in all the four skills of English and this reality can be termed as a pitfall and thus while analyzing the text consideration of the theoretical development is important (2010, p.111). Mazumder also regrets that the learners here even after learning English for 10-12 years are not able to communicate in English in practical life. He further adds that though CLT approaches are implemented in action in the English classroom for many years, their expected communicative competence in English remains still undeveloped (2011, p. 4).

### ***CLT Approaches and Its Features***

About Communicative Language Teaching (CLT) Brown says:

Communicative Language Teaching – teaching second languages for the ultimate goal of communication with other speakers of the second language. Such a focus has centered on speaking and listening skills, on writing for specific purposes, and on ‘authentic’ reading texts. (1994, p.226)

On the other hand, Harmer says:

The communicative approach or CLT is the name which was given to a set of beliefs which included not only a re-examination of what aspects of language to teach, but also a shift in emphasis is how to teach. The ‘what to teach’ aspect of the communicative approach stressed the significance of language functions rather than focusing solely on grammar and vocabulary. (2001, p. 84)

Littlewood says that CLT gives equal importance to both functional and structural aspects of languages (1981). On the other hand, Richards and Rodgers state that CLT assists the learners to use the target language in real life situation (2001, p.159). In connection with this, Siddique says, “The principles of CLT emphasize the issues of teaching language in a way that is systematically possible, feasible, and culturally appropriate, concurs and provides functional or genuine language” (2004, p.16).

Richards and Rodger mention some of the characteristics of communicative view of language as:

1. Language is a system for the expression of meaning.

2. The primary function of language is to allow interaction and communication.
3. The structure of language reflects its functional and communicative uses.
4. The primary units of language are not merely its grammatical and structural features, but categories of functional and communicative meaning as exemplified in discourse. (2001, p.161)

### ***Activities of Text, Testing and Materials***

According to Tomlison, by 'language learning materials' people usually mean course books but this term implies whatever thing which is adopted by the teachers and the students as a learning tool (1998, p. 2). Cunningsworth opines that almost all the teachers take the help of published materials to facilitate learning of language (1984). McDonough and Shaw define two types of situations such as, 'open-market situation' where teachers adopt text according to their own choice contrarily another situation where Ministry of Education prepares and hands over texts to the teachers (2003, p.59). They further opine that for both type of situations, the evaluation of the text is very important and in the evaluation process, one important factor should be "[T]he relationship between the tests and exercises to a) learner needs, and b) what is taught by the course material" (2003, p. 67).

Tomlison designates a text book as the core material for a course and further says:

It aims to provide as much as possible in one book and is designed so that it could serve as the only book which the learners necessarily use during a course. Such a book usually includes word on grammar, vocabulary, pronunciation, functions and the skills of reading, writing, listening and speaking. (1998, p. IX)

In order to promote communicative language learning, Nunan's suggestion is in favor of materials that are authentic and task-based and ultimately promote communicative language use (1989, p. 194). Selection of the appropriate text books is very important for teaching and learning of English in the classroom. In connection with the valuation of the qualities of the text book, Garinger proposes the following key questions:

1. Do the questions and the activities of the textbook contribute to learners' language acquisition?
2. Are the Exercises balanced in their format, containing both controlled and free practice?



3. Are the exercises progressive as the students move through the textbooks?
4. Are the exercises varied and challenging? (2002)

About text based activities for CLT class, Nunan suggests as, “activities involve oral communication, carrying out meaningful tasks, and using language which is meaningful to the learner” (1989, p. 194). On the other hand, Brown says that CLT classroom should be a site where,

1. A significant amount of group work and pair work is conducted;
2. Authentic language input in real life context is provided;
3. Students are encouraged to produce language for genuine, meaningful communication, and
4. Classroom tasks are conducted to prepare students for actual language use outside the classroom. (1994, p. 81)

Larsen-Freeman also gave importance to group work and pair work and advocates in favor of those activities which will create scope for the students to interact with each other in the target language (2000, p. 127). He further puts, “Communicative interaction encourages cooperative relationships among students. It gives students an opportunity to work on negotiating meaning” (2000, p.127).

In this regard, Hossain declares that students should be given appropriate activities for the practicing and thereby developing their knowledge of practical use of language, and he advises for a balance between the activities based on ‘controlled exercise’ and ‘free practice’ (2010, p. 113). He clarifies these two terms as, ‘controlled exercises’ are those that require a single answer. On the other hand, free practice exercises are those tasks which require the involvement of the students’ creativity and knowledge (2010, p.113). Cunningsworth intends to include the activities which will be based on realistic situation (1995, p.117). On the other hand, Harmer comes up with the idea that the activities of the text should aim developing the learners’ all the four skills of English (1991, p.16-17). About the activities of text book, Jacobs and Ball advocate in favor of the activities which encourage the learners to go through it grasping the meaning and it is only then, they say, the learners will be able to involve themselves in experiencing the language (1996, pp. 99-101).

Testing plays a very important role in knowing the competency level of the learners. Testing is also important in giving learners an overall idea about their position regarding the development of language. Rightly does Hughes consider 'testing' as a dependable measure of language ability and asserts:

Within teaching system, too, so long as it is thought appropriate for individuals to be given a statement of what they have achieved in a second or foreign language, tests of some kind or another will be needed in order to provide information about the achievement of the group of learners, without which it is difficult to see how rational educational decision can be made...we have to recognize the need for a common yard stick, which tests provide, in order to make meaningful comparison. (1989, p. 4)

### **Research Question**

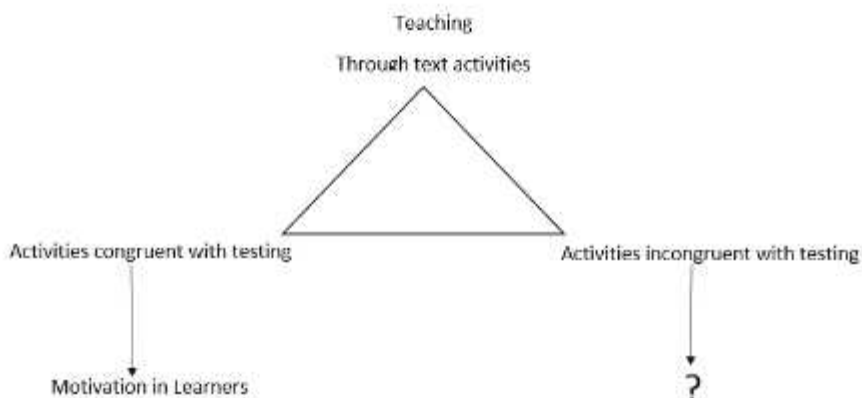
The present study has addressed the following research question:  
What is the consequence of the dichotomy between the text activities of *English For Today Classes XI-XII and Alim* and the testing system?

### **Methodology**

#### ***Conceptual Framework:***

*English for Today Classes XI-XII and Alim*, testing and activities of texts meant for classroom practice are the different issues. Concept formation, according to the aim of the present study, is required to be presented in this section. *English for Today Classes XI-XII and Alim*, testing and different types of activities are inevitable parts of English teaching-learning situation at the Higher Secondary level. Every course of teaching and learning certainly has some aims or objectives and English is not an exception. Based on the need of the learners, texts materials are used for teaching and learning following the objectives of the course. In teaching-learning situation, activities of texts include those issues which help the teachers make the learners practice in the class for attaining of their course objectives and so, the activities of the text should have clear congruence with course objective. But, it is the testing on the basis of which ultimately learners' performance or learning outcome is evaluated to know whether the learners can reach their goal or not or whether course objectives are fulfilled or not. As such, congruity is also required

between text activities and testing. So, the entire idea of the *English for Today Classes XI-XII and Alim*, teaching and testing at the Higher Secondary class is set in a mode of triangulation. Since ultimately the learners are motivated by their performance in testing, they become interested to practice only those text activities which have congruity with test items. So, any conflict between the text based activities and test items are likely to demotivate the learners to practice in the classroom.



### ***Research Design:***

This small scale study is both qualitative and quantitative in nature. The finding and discussion of the study are divided into four sections. Firstly, the analysis of EFT text (for XI-XII) in terms of different types of text activities and tabulation of the findings is presented. Secondly, tabulation of Higher Secondary level's marks distribution for English Paper I is exhibited. Thirdly and fourthly, tabulation of the findings from the questionnaire survey both with the teachers and students and Focus Group Discussion (FGD) among the teachers and overall discussion on the findings has been incorporated into the study.

### ***Participants:***

Two colleges of Dhaka city were selected and from each college 5 English teachers and 50 students of class XII of the Higher Secondary Level were selected. Convenient sampling technique was chosen for selecting the participants.

### ***Survey Instrument:***

Two separate questionnaires were prepared for collecting data from the students and the teachers. Teachers' questionnaire consisted of 7 close-ended questions whereas the students' one consisted of 5 close ended questions. Two agenda for FGD session were also selected. To record the voice of the teachers, mp3 recorder was used in the FGD session.

### **Findings**

#### ***Data Collected from Book Analysis and NCTB Syllabus***

In the text there are different types of activities. Some are controlled exercises, for example 'filling the gaps', 'multiple choice' etc. whereas some others are free practice such as, 'creative writing', 'oral discussion', 'planning' etc. The list of different types of activities found from the EFT book analysis has been tabulated in Table 1.

**Table-1: Analysis of the Activities of EFT Text (for XI- XII 2015)**

1. Multiple choice	11. Rearrange	21. Paragraph writing
2. Question/Answer	12. Idea sharing	22. Elaborating ideas
3. Filling in the gaps with clues	13. Flow chart / Graph analysis	23. Role play
4. Filling in the gaps without clues	14. Identifying	24. Making wall-poster
5. True/False	15. Essay/ Composition/ Article Writing	25. Planning
6. Summary	16. Question making	26. Thinking and expressing something orally / Narrating Event
7. Table completing	17. Dialogue	27. Matching Column / words
8. List making	18. Sentence making	28. Picture depicting
9. Word meaning / Finding antonym and synonym	19. Project Work	29. Finding similarities and dissimilarities
10. Guessing general theme	20. Information transfer	30. Completing sentence

While analyzing the text, it was found that all the activities set in the text are to be practiced by the learners either individually or in groups or in pairs. In the EFT text (consists of 15 units) 32 activities are for practice in pairs and 38 activities for practice in groups.

**Table-2: Distribution of Marks Paper I (For EFT XI-XII)**

	<b>Total marks</b>	<b>Test items</b>		<b>Notes</b>
<b>Reading</b>	<b>60</b>	<b>PART I</b>		Text material to be selected from the (English For Today) Textbook
		<b>01. SEEN PASSAGE</b>		
		a. MCQ (guessing meaning from context)	05	
		b. Comprehension questions	10	
		<b>02. SEEN PASSAGE</b>		
		Information transfer/Flow chart	10	
		<b>03. SEEN PASSAGE/POEM</b>		
		Summarizing	10	
		04. Cloze test with clues	05	
		05. Cloze test without clues	10	
		06. Rearrange	10	
<b>Writing</b>	<b>40</b>	<b>PART II</b>		
		07. Writing paragraph answering questions	10	
		08. Completing a story	07	
		09. Writing informal letters/e-mail	05	
		10. Analyzing maps/graphs/ charts	10	
		11. Appreciating short stories/ poems (identifying the theme)	08	

(Ucca Madhamic certificate Parikher Patha Shuchi, 2015, pp. 61-62)

#### ***Findings from Students' Responses:***

In question no 1, students were asked whether their teachers

made them practice all the activities of EFT book and here, all the students replied in the negative. Then, the students were asked whether they spoke in English in the class and here, 40 students replied in the negative and 10 in the affirmative and the 50 students sometimes spoke in English. In the third question, students were asked which books the students usually followed for the preparation of the examination and it was found that 100% students followed both EFT book and guide books. The fourth question was regarding their emphasis on different skills and it was found that 100% students gave importance to reading and writing skills. In the last question, students were asked to which factor they gave most importance in learning English and it was found that all the students gave importance on getting good grade.

**Table-3: Findings from the Students' Questionnaire Session**

<b>N0</b>	<b>Question topic</b>		<b>Answer</b>			
1	Teachers' making the students practice all the activities of the text		Yes-0 (0%)		No-100 (100%)	
2	Students' speaking in English in the class		Yes-10 (10%)	No-40 (40%)	Sometimes-50 (50%)	
3	For the preparation of the examination students preferred text	Only EFT book 0 (0%)	Only guide books found in the market-0%		EFT book and other guide books - 100 (100%)	Other-0 (0%)
4	Students' giving importance to different skills development		Reading and Writing Skills- 100 (100%)		Speaking and Listening - 0(0%)	All the four skills- 0(0%)
5	Students giving importance while learning English		Getting Good Grade- 100 (100%)		Development of four skills of English- 0 (0%)	

### ***Findings Teachers' Responses***

#### **Findings from Teachers' Questionnaire Survey**

In the first question, the teachers were asked when they taught English, to what factors they gave importance - students' getting good grade or objectives of the text. It was found that 10 out of 10 teachers gave importance to students' getting good grade. Then, in the second question, the teachers were asked whether they gave importance to all the activities of the text and here all the teachers replied in the negative. In the third question, the teachers were asked whether they gave equal importance to the development of all the four skills of English while teaching and here again, all the teachers replied in the negative. Then, the teachers were asked whether the total class-hour was enough for the completion of the syllabus, and here 8 teachers thought that the time was not enough whereas for the remaining 2 teachers the time span was enough. Then, in the fifth question, those teachers were asked whether they thought that there was a gap between the CLT approaches and the evaluation process at the Higher Secondary level and here, all the teachers told about it. In the sixth question, the teachers were asked whether they thought that the practice of all the activities of the text was enough for the development of students' four skills of English. Here, all the teachers replied in the affirmative. In the last question, the teachers were asked about their medium of instruction in delivering lecture in the class and in answer to this question they told that their lectures were bilingual.

**Table-4: Findings from the Teachers' Questionnaire Session**

	<b>Topic of the questions</b>	<b>Answer</b>	
1.	Teachers' giving importance while teaching	Students' getting good grade-10 (100%)	Objective of the course book-0 (0%)
2.	Teachers' giving emphasis on all the activities of the EFT text	Yes-0 (0%)	No- 10 (100%)
3.	Teachers' giving importance to the development of all four skills of English	Yes-0 (0%)	No- 10 (100%)
4.	Whether the class-time is enough for the teachers to complete the syllabus	Yes- 2 (20%)	No-8 (80%)
5.	Whether there is any gap between the CLT approaches and the testing	Yes-10 (100%)	No-0 (0%)

6.	Whether the activities of the text is enough for the development of four skills of English	Yes-10 (100%)	No-0 (0%)	
7.	Teachers' medium of instruction in delivering lecture	English 0 (0%)	Mixture of English and Bengali-10(100%)	Bengali 0 (0%)

### Findings from Teachers' FGD Session

7 teachers thought that unnecessarily some activities were included in the EFT text, and with some text activities the testing or evaluation system had no connection. They said that in the evaluation process, only the reading and writing skills of the students were taken under consideration, but a good number of activities in the text were based on speaking and listening skills. According to these 7 teachers, as the testing of speaking and listening skills was not a part of the evaluation process, there was no use of these two skills based activities. 3 out of 10 teachers informed that they thought that all the activities in the text were important and they knew the fact that by practicing all the activities of EFT book, students could develop their four skills of English. But, it is not possible for them to let the students practice all the activities for their development as they (the teachers) were always under pressure to complete the syllabus of examinations in time and at the same time, the students were not interested to practice the activities based on speaking and listening as they (the students) were not evaluated in terms of these two skills. It is the opinion of all the teachers that the primary concern of both the teachers and the students always concentrated on the handsome GPA of the students. All of them admitted that the teachers were under pressure for the completion of syllabus in time and ensuring the students' good grade. But they were not forced for the development of students' communicative competence in terms of speaking and listening. From the FGD session it also came to light that the teachers did not thoroughly deliver their lecture in English because of the convenience of the students.



## **Discussion**

From the analysis of the EFT text of the Higher Secondary level and the scenario of marks distribution in the curriculum of the said level it becomes clear that there is certain gap between the test and the testing activities. The activities of the text are designed to help the learners develop their communicative competence by practicing four skills of English language. In the text activities, there is enough scope for the students to practice 'controlled exercises' and 'free practices', which is in line with the view of Hossain (2010, p.113). 32 times students are supposed to be asked by the teachers to practice in pairs and 38 times in group. So, the activities of the concerned text are in line with the objectives of the text as mentioned by Saha (in Billah, Alam, Sahidullah, Mortuza, Haider and Roy, 2015, p. III). On the other hand, the activities of the texts are organized and designed focusing on real life simulation and so, Harmer (1991) and Cunningsworth's (1991) viewpoint regarding the text activities issue also gets reflection here. Besides, there is scope for practicing discussion, expressing or sharing their ideas orally and practicing listening. On the other hand, in the testing part, there is ample scope for the learners to test their reading and writing skills whereas there is no room at all for the learners to test their listening and speaking skills.

All the teachers agreed that the activities of EFT were enough to develop the students' four skills of English, but they did not give equal importance to the practice of all the activities. On the other hand, all the students did not speak in English in class but in the classroom the students get controlled environment where they always got their teachers who correct them. If all the teachers delivered their lectures in English and at the same time, students were made to speak in English in the classroom, then it could be ensured that at least the students could get chance to practice speaking and listening in the class. Both Hossain (2010) and Mazumder (2011) deplore over the fact that even after learning English compulsorily for twelve years our learners do not get good command over the language. The present study has got further ground in support of the learners' lacking in good command over the four skills of English language.

The students followed both EFT and guide books for taking preparation of examinations and this factor also indicates that students could not solely depend on the activities of the text book for examination purpose. All the students gave importance to

reading and writing skills as they always wanted to get immediate feedback in the form of getting good grade. On the other hand, as the teachers were under pressure for the completion of syllabus in stipulated time, they were concerned about the good result of the students in the final examination organized by the Education Boards and so they gave importance to all those activities which were based on the development of students' reading and writing skills. The teachers understood the gap between the CLT approaches and the testing process but in this regard they could not do anything as in the class they just gave life to the innate syllabus focusing on the testing process. To get idea about the learners' proficiency level an appropriate testing system has not yet been initiated to the pedagogical situation and that is why, neither all the activities of the text book are followed nor any common practice is done here to develop learners' four skills of English language. The teaching-learning situation at the Higher Secondary level is in the need of 'a common yard stick' as proposed by Hughes (1989).

## **Conclusion**

Though CLT includes some sets approaches in the curriculum for English teaching at the Higher Secondary level and text book is sufficiently designed including real life context based activities, students do not attain good command over all the four skills of English. It is just because of the incongruity between the text book and the evaluation process. If in the testing process, there were the options of evaluating the students' competence in four skills of English, then both the teachers and the students would take special care for the development of the four skills. Students here do not get motivated to practice four skills equally since they want feedback in the form of good results and the teachers are also governed by the thought of the syllabus completion within limited time to prepare the learners for the final exam organized by the Education Board which will only test learners' reading and writing skills. In an indirect way the teachers are demotivated to let the students practice speaking and listening skills and so, the activities (focusing on speaking and listening skills) based on real life situations are often avoided. Moreover, the teachers are not delivering their lectures in English too. As a matter of fact, there is a gap between the course objectives and the teaching procedure at this level and so, both the learners and the teachers who work for immediate goal do not give importance to the development of the four skills of the English language equally.

## **Recommendation**

The teachers can at least introduce the students with some selected activities for the development of their speaking and listening skills and after regular interval they can assess the feedback. There is no alternative to motivation in this task of competence development and so, the teachers can make the students aware of the importance of listening and speaking skills and suggest them to practice English speaking wherever and whenever they find it convenient. Even at home, the learners can enjoy English cartoon, watch movie, sports commentary, news, documentary and some other English programs for the development of their skills of English language. The concerned authority is to take initiative to remove the incongruity between the text-objectives and the testing system. Learners can be given extra class for the development of speaking and listening skills and this initiative may be emphasized by arranging assessment program to make the learners serious. The syllabus may be scientifically reduced so that the teachers may not feel pressure to complete it within a limited time and in such a situation, they will get enough time to address the students' development of four skills of English.

## **Reference**

- Abedin, M., Khan, S. H. & Akter, S. (2009) 'Listening skill at tertiary level: a reflection', *The Dhaka University Journal of Linguistics*, vol. 2, no. 3, pp. 69-90.
- Abedin, M. (2012) 'The present mode of teaching in the ELT classes at the higher secondary level in Bangladesh', *Stamford Journal of English*, vo. 7, pp.1-15.
- Billah, Q. M., Alam, F., Sahidullah, M., Mortuza, S., Haider, Z. & Roy, G. (2015) *English For Today For Classes XI-XII and Alim*, National Curriculum & Textbook Board Dhaka.
- Brown, D. (1994) *Principles of Language Learning and Teaching*, Prentice Hall Inc, Prentice Hall Regents.
- Cunningsworth, A. (1984) *Evaluating and Selecting ELT Materials*, Heinemann, Oxford.
- Cunningsworth, A. (1995) *Choosing Your Course Book*, Heinemann, Great Britain.

Garinger, D. (2002) 'Text Book Selection for the ESL Classroom. *Digest*', retrieved, 3 July 2006. <http://www.cal.org/resources/Digest/0210garinger.html>

Harmer, J. (1991) *The Practice of English Language Teaching*. Longman, London.

Harmer, J. (2001) *The practice of English language teaching*, Person Education, Edinburgh.

Hossain, M. E. (2010) 'English for today, for classes 9-10: an empirical study', *BRAC University Journal*, vol. 1, pp.111-127.

Hughes, A. (1989) *Testing for Language Teachers*, Cambridge University Press, Cambridge.

Jacobs, G.M. & Ball, J. (1996) 'An investigation of the structure of group activities in ELT text course books', *ELT Journal*, vol. 50, no.2, pp. 99-107.

Larsen-Freeman, D. (2000) *Techniques and Principles in Language Teaching*, Oxford University Press, Oxford.

Littlewood, W. (1981) *Communicative Language Teaching*, Cambridge University Press, Cambridge.

Mazumder, S. K. (2011) 'Bangladeshi secondary teacher educators' experiences and understandings of communicative language teaching (CLT)', thesis submitted in partial fulfilment of the requirements for the Degree of Master of Education at the University of Canterbury, retrieved, 1 November 2013, [http://ir.canterbury.ac.nz/bitstream/10092/6638/1/Thesis\\_fulltext.pdf](http://ir.canterbury.ac.nz/bitstream/10092/6638/1/Thesis_fulltext.pdf)

McDonough, J. & Shaw, C. (2003) *Materials and Methods in ELT*, Blackwell publishing, Malden.

Nunan, D. (1989) *Designing Tasks for the Communicative Classroom*, Cambridge University Press, Cambridge.

Richards, J. C. & Rodgers, T. S. (2001) *Approaches and Methods in Language Teaching*, Cambridge University Press, Cambridge.

Saha in Billah, Q. M., Alam, F., Sahidullah, M., Mortuza, S., Haider, Z. & Roy, G. (2015) *English For Today For Classes XI-XII and Alim*, National Curriculum & Textbook Board, Dhaka.

Siddique, R. (2004) 'CLT: another assumed ideal from the

west?' *The Dhaka University Studies*, vol. 61, no. 1, pp. 15-26.

Tomlinson, B. (1998) *Materials Development in Language Teaching*, Cambridge University Press, Cambridge.

*Ucca Madhamic Certificate Parikher Patha Shuchi 2015*, NCTB, Dhaka.

## **Appendix**

### **Questionnaire for the Teachers**

1. Which following factor is emphasized by you while teaching?
  - a. Students' getting good grade
  - b. Objective of the course book
2. Do you give importance to all the activities (based on the CLT approaches) in the EFL text?
  - a. Yes
  - b. No
3. Do you give equal importance to the development of all the four skills of English?
  - a. Yes
  - b. No
4. Do you think the total class time is enough for completion of the syllabus?
  - a. Yes
  - b. No
5. Do you think there is a gap between the CLT approaches and the evaluation process at the Higher Secondary level?
  - a. Yes
  - b. No
6. Do you think that the practice of all the activities of the text is enough for the development of student' four skills of English?
  - a. Yes
  - b. No
7. Which language/s do you use as medium of instruction in delivering lecture in the class?
  - a. English
  - b. Bengali
  - c. Mixture of English and Bengali

### **Questionnaire for the Students**

1. Do your English teachers make you practice all the activities of EFT text in the class?
  - a. Yes
  - b. No
2. Do you always speak in English with the teachers and the classmates in the class?
  - a. Yes
  - b. No
  - c. Sometimes
3. Which book do you usually follow for the preparation of examination?
  - a. EFT book
  - b. Guide book found in the market
  - c. Both a and b
  - d. Other source
4. Which skills of the followings do you think is most important for you?
  - a. Reading and writing skills
  - b. Speaking and listening skills
  - c. All the four skills
5. Which one of the followings is most important to you?
  - a. Getting good grade
  - b. The development of four skills on English

### **Agenda for Focus Group Discussion**

- The activities of *English for Today Classes XI-XII and Alim*
- Evaluation process at the Higher Secondary level following EFT book

## Factors Influencing Customer Satisfaction Towards Buying Chinese Products: An Empirical Investigation on Bangladeshi Customers

Zakia Razwana Haque<sup>1</sup> and M. Jahangir Alam<sup>2</sup>

**Abstract:** The main purpose of this study is to determine the attitudes of Bangladeshi consumers towards Chinese products and what they reflect on repurchasing decision. In this study the focus was limited to the generic products of china rather than any specific product group or brand. Data were collected by a self-administered questionnaire and multiple regression analysis was done to find out the co-relationship among the factors of satisfaction. We have found that when the customers take repurchase decision, they consider three satisfaction variables out of the 11 factors those have been taken into considerations. This study also suggests that Bangladeshi customers are critical about awareness, price quality comparison, safety comparison with local brands and the reference group in decision making.

**Keywords:** Consumer behavior, buying decision, Chinese brand, Satisfaction.

### Introduction

From a steady growth since the 1980s to a sharp rising in the 21<sup>st</sup> century, Chinese economy has shown a boom over the period. When the country entered into WTO in 2001, its role in the global economy is on the mount (George, Jijo and Anandkumar, Victor 2015). In 2010, China exceeded Japan as the world's second-largest economy after the United States, and economists predict that the country will stay strong in the future. Behind this radical growth, exports play a vital role. In 2013, for example, China exports were valued at \$2.21 trillion and imports at \$1.95 trillion (*The Hindu Business Line*). The biggest portion of Chinese exports comes from manufacturing, roughly 94 percent. Computers, telephones, broadcasting equipment, office machineparts and industrial printers are its most-exported manufactured products. China is also the world's leading

---

<sup>1</sup> Former Senior Lecturer, Bangladesh University, Dhaka, Bangladesh.  
E-mail: zrh2015@gmail.com

<sup>2</sup> Ph.D, Professor, Prime University, Dhaka, Bangladesh.  
E-mail: jalam@iba-du.edu

exporter of rubber tires, insulated wire, video displays and low-voltage protection equipment. The remaining 6 percent of China's annual exports is composed of agricultural products, mining products and fuel. Refined petroleum makes up the largest percentage of exported natural products, followed by vegetable products, stones and glasses and general foodstuffs.

During the 1990s, Chinese products were viewed as low quality. They were purchased by the poorest of the poor and not expected to last long.

But, during the 2000s, Chinese products acquired two reputations:

- a) A niche market supplier for areas that are not covered by Western firms
- b) Making the idea of consumerism acceptable in developing countries

The technological improvement contributed greatly to improving the heap of production as well as managing the fierce global competition. According to Miaojie Yu (2018) what China achieves from trade is the stimulation of distinguished economic factors. In recent years, Chinese manufacturers are progressively focusing on producing products that are expensive, developing global brands with the help of sophisticated technology.

Parasuraman (1997) & Woodruff (1997) tell that advantage over competitors requires preferable achievement in value formation. But Uyar (2018) finds that Chinese products are considered to be unhealthy, not recognized and has more negative thoughts. So the understanding of customer value, factors of customer satisfaction and their purchasing intention or retention is an absolute must.

Now a day's consumers are independent in choosing the level of quality according to their affordability. Thus, in positioning products in the global markets, companies cannot only depend on high level of production rather brand positioning and satisfaction demand equal amount of attention. Besides, customers always seek higher value products in reasonable prices, not low or high prices. The international companies thus face challenges in setting competitive prices that also give importance to the value and satisfaction perceptions. A number of studies have already been conducted to know the customers



buying behavior but in the developed country context. Besides, the majority of study focused on country of origin image formation. Here, we have made an analysis of cross cultural products perceptions which show how Bangladeshi customers made decisions on buying Chinese products. This study attempts to fill the gap that has rarely been studied on consumer satisfaction toward buying Chinese products especially in the context of Bangladesh.

### **Scope of the Study**

The scope of this study is limited to the factors that could affect the satisfaction level of customers who used the Chinese products at least one time. Contrary to the popular belief, China is producing both high and low quality products but always suffered by its cheap images. The mounting sales of Chinese goods in Bangladeshi market, as we observe, raises the question that why the customers of Bangladesh are buying it's products. The current study addressed the attitudes of Bangladeshi consumers towards Chinese products and specifically examined the factors that affect customer satisfaction. The study focused on Chinese manufactured products which refer to Chinese brands.

It covers from customer awareness of Chinese products to the repurchase intention. It reveals the innate reasons of why customers buy Chinese products, what they think before purchase, their typical budget and the influential role of people in buying decision. Hence, it does not cover other variables like advertisement, sales promotion or any specific brand loyalty that may require further study.

### **Objective of the Study**

The broad objective of this study is to know the factors that affect consumer satisfaction towards buying Chinese products.

The specific objectives are:

- To examine the relationship among the factors of satisfaction.
- To identify whether the customers are satisfied with the quality of Chinese products or not.
- To determine which factor plays the most important role in

taking the buying decision of Chinese products.

- To ascertain how customers perceive Chinese brands in comparison to other brands.

### **Limitation of the Study**

- Literature and Empirical evidences regarding the customer satisfaction are limited
- Unspecified brand comparison or product type
- The sample size and context was limited

### **Methodology of the Study**

A structured questionnaire was used to collect the data from respondents regarding the effect of satisfaction factors on purchase intention. Basic English language was used so that the respondents need not to think critically. The questionnaire contains both demographic and subjective questions to know the characteristics and intents of the respondents. Some open ended questions were used like monthly family spending and number of family members. Other questions were close ended for the purpose of collecting appropriate data. 11 items are measured in five point Likert scale. The selections of independent variables are mostly from the American Customer Satisfaction Index (ACSI), the dependent variable in this conceptual model is customer satisfaction, while the independent variables are perceived quality, perceived value and customer expectations.

To understand Perceived Quality, Customers are asked about whether they are satisfied with quality of their purchased products. Perceived value is the second determinant of customer satisfaction and matching of price paid and measure of quality is another factor. Although price is habitually vital to the customer's first time purchase, it usually has a somewhat minor impact on customer satisfaction for repeat purchases.

Customer expectations are the third determinant of customer satisfaction and, therefore Bangladeshi buyers' expectation, product safety, after sale service, economical and features are included as independent variables.

### **Sampling Method and Sample Size**

The target population was the Bangladeshi consumers who prefer or at least bought Chinese aproduct once. Population of unknown volume was used when the sample size was

determined. The 'convenience sampling method' was applied in the research. A total of 200 questionnaires were distributed out of which 120 were received back.

## **Sources of Data**

### **Primary Data**

A survey using a questionnaire was conducted to collect quantitative data for the purpose of this study. A total of 200 questionnaires were distributed to the respondents in different areas of Dhaka. After the survey, we performed screening of the received questionnaires and among them 100 (50% of total distributed) questionnaire were found valid for further statistical analysis.

### **Secondary Data**

Secondary data were obtained from sources like prior research report, articles, different books, periodicals and different websites etc.

### **Analytical Tools Used**

For the purpose of analysis, cross tabulation was conducted to show the requirements of consumers in terms of age, gender and features they seek.

Multiple regression was used subsequently on consumer' purchase intention as dependent variable with the ten factors that constituted the independent variable to indicate the relationship among these dependent and independent variables. SPSS 22 version was used for the statistical analysis.

Multiple Linear Regression Model:  $Y = \alpha + \beta_1 X_1 + \beta_2 X_2 + \dots + \beta_k X_k + \epsilon$

Here, Y= Repurchase Intention

$\alpha$ = constant/Intercept

X=Independent variable

$\beta$ = Coefficient of independent variable

$Y = \alpha + \beta_1(\text{Awareness}) + \beta_2(\text{Frequency of purchase}) + \beta_3(\text{Budget}) + \beta_4(\text{Satisfaction regarding Quality}) + \beta_5(\text{Price quality match}) + \beta$

$6(\text{Brand Safety})+\beta_7(\text{economical than others})+\beta_8(\text{After sale services})+\beta_9(\text{Safer than BD brands})+\beta_{10}$   
 $(\text{preferred feature})+\beta_{11}(\text{Buying decision influencer})+e$

## Literature Review

The global market is witnessing how China, the second largest economy is dominating the consumer industry in global trade. China is gaining competitive advantage in two ways as it produces products that offer greater value or lower prices that meet the demands of certain customers of international market. While Chinese production is thriving, it is seen that they are suffering from poor brand image as stated by Schniederjans et al (2011), and Anderson (2015) identified that products of Chinese origin seem as less quality than that of others.

Consumer perception of international brands is often influenced by various factors. One of those is country image. French perfumes and German cars are seen as better by the customers (Ari and Madran, 2011). Positive attitude towards a country directs the customer perception to the country's product (Bahar, Dany 2014). However, in examining from a wide-range of idea to the more specific about how Chinese products are viewed, Sarwar, Azam, Haque (2013) found that in buying Chinese products price and product quality have positive significant influence whereas the other two independent variables like country of origin and product type has no significant influence. They have also added that few customers are satisfied though they may not have good perception on it. It shows that beyond the image of poor quality, there is a huge demand by the customers who seek the new trend and fashion in an affordable way. The marketers can use this image for their concern as "Careful assessment of the positive and negative aspects of the country of origin influence is needed for the marketers who are interested in creating global brands" ([https://:economist.com](https://economist.com), 2013).

Although perception and satisfaction both are psychological aspects, customer satisfaction is central to organizational success as observed by Minton (2015). Viswanathan and S. Venugopal (2012) also support that the repeat purchase by satisfied customers. results in growing sales and consumer loyalty .The term 'Customer satisfaction' refers to the extent to which a product's perceived performance matches with buyer's

expectation (Kotler, 2010). Another study mentioned that “How customer evaluates the constant performance is customer satisfaction” (Gustafsson, Johnson and Roos, 2005). Knowing customers’ evaluation helps the firm to identify positive and negative impression about a brand. According to Kim, Park and Jeong (2004) customer satisfaction is customer’s feedback to the state of approval, and customer’s judgment of satisfaction stage. The perceptions of product quality ultimately affect consumer satisfaction.

One of the most important factors of customer satisfaction is quality perception. Compromising the price often forces the company to sacrifice the quality if not technologically advanced. Customer satisfaction can be affected by many factors such as product, price, service quality and market (Alanazi, Bach 2016). They also agree that the single thing customers seek in both services and products is quality. Quality can be defined as the totality of product /service attributes that bears on their capabilities to satisfy implied or stated consumer needs. The concept of product or service quality can vary because customers tend to perceive quality in different ways. Previous researchers have found that perceived quality depends on several extrinsic cues. For example, Teas and Agarwal (2000) demonstrated that perceived value can be intruded by perceived quality and sacrifice which is the result of extrinsic cues (price, brand name, store name and country of origin). In another study, Herrmann et al. (2007), it was concluded that customer satisfaction is influenced by price perceptions in a straight way while the perception of price fairness persuade in an circuitous manner. Other than these factors Hanif, Hafeez, Riaz (2010) argued that both customer services and price fairness are important in creating customer satisfaction. Attaching importance to satisfaction to the purpose of organization, it can be said that ‘satisfaction of the customers can help the brands to build long and profitable relationships with their customers’ (Eshghi, Haughton and Topi, 2007). Notably, organization management can boost their sales through the study of the rapport between consumer satisfaction and the quality fundamentals including product/service quality and price quality (Mackiewicz, 2015).

As we see in the contemporary business world, global marketing strategy aims at branding that ensures obtaining and maintaining shares in the ever changing environment of business world. In that case, a decisive role is played by customer satisfaction that

strengthens repeated buying and consumer loyalty (Viswanathan, M., S. Venugopal, 2015). Uyar (2018) found an interesting contradiction when the customers are asked about whether they buy Chinese products they answered negatively but when the same question is asked with mentioning a Chinese brand, answered positively which refers that brand name can eliminate the negative impression in the consumers' mind. Kotler and Keller (2006) specify 'a brand is a product or service that adds dimensions that differentiate it in some ways from other products or services designed to satisfy the same need'. This satisfaction may influence repurchase, purchase of more products, positive word of mouth and willingness of customer to pay more for the particular brand. It is likely that a business will lose market share, customers and investors if they fail to satisfy customers 'effectively and efficiently as the competitors do' (Anderson, Fornell and Mazvancheryl, 2004). Additionally, Tharmi et al. (2011) mentioned that brand loyalty, brand awareness, brand association, and perceived quality strongly influence on purchase intention thus satisfaction. Steenkamp (2014) also believes that branding is a successful marketing tool in building a relationship with audience. Increased relationship helps to increase market share and thus positive brand image is given such paramount importance.

Taking into consideration of market and economy, Bilkey and Nes (1982) demonstrate that domestic products are favored over foreign products by the consumers of the developed countries, while foreign products are preferred to domestic products by the consumers of the developing countries. Juha\_Munnukka, Pentti Järvi, (2012) also found that manufacturing country and product quality effectively influence consumer decision making in globally available product categories. The customer value of technologically advanced consumer products was composed of 'visual appeal, excellence, and price satisfaction'. Hence, the next purchasing decision is better explained by the perception of product quality as mentioned by Forbes, Silke (2008).

So this paper tries to focus on establishing a clear relationship that exists between consumer satisfaction and the factors (service/product quality, price quality and marketplace) that broadly affect the decision of repurchase.

**Data Analysis and Interpretation:****Table-1: Model Summary Table**

<b>Model Summary</b>			
Model	R	R Square	Adjusted R Square
1	0.778 <sup>a</sup>	0.606	0.500
a. Predictors: (Constant), (12) Buying decision influenced by, (10) preference for, (9) Safer than BD brands, (7) Cheaper than other brands, (6) Chinese brands safer than other brands, (8) after sale service, (2) Frequency of Purchasing, (4) Satisfaction regarding quality, (3) Typical Budget, (5) Price quality match, (1) Awareness of Chinese brands			

**Table-2: Regression Coefficients Table**

<b>Coefficients</b>					
Model		Unstandardized Coefficients		Standardized Coefficients	t
		B	Std. Error	Beta	
1	(Constant)	0.163	0.663		0.245
	(1) Awareness of Chinese brands	-0.091	0.186	-0.085	-0.490
	(2) Frequency of Purchasing	0.303	0.124	0.336	2.432
	(3) Typical Budget	0.093	0.144	0.095	0.642
	(4) Satisfaction regarding quality	0.396	0.148	0.456	2.680
	(5) Price quality match	-0.211	0.132	-0.251	-1.598
	(6) Chinese brands safer than other brands	0.460	0.133	0.478	3.468
	(7) Cheaper than other brands	0.176	0.109	0.204	1.615
	(8) After sale service	0.147	0.111	0.173	1.323

(9) Safer than BD brands	-0.108	0.098	-0.147	-1.105
(10) Preferred feature	0.078	0.107	0.088	0.732
(12) Buying decision influencer	-0.168	0.108	-0.206	-1.551
a. Dependent Variable: (11) Repurchase				

From the above table (Model Summary), it is found that the value of R is 0.778, it indicates that the relationship between the dependent variable and independent variables are strong enough to represent the model. It is also seen that the value of Adjusted R square is .606, i.e. the dependent variable is 60% explained by the independent variable that are included in the model.

### Comment on Significance

Since P-value of Frequency of purchasing, Satisfaction regarding quality of Chinese brands and Chinese brands safety than other brands are 0.019, 0.011 and 0.001 accordingly which is less than 0.05. At 5% level of significance it can be concluded that it significantly affects the purchase decision. That means, when people take the repurchase decision of Chinese brands they mostly focus on frequency, quality and safety factors.

The other explanatory variables are not predicting the dependent variable in terms of the known or fixed values of the independent variables.

Multiple Linear Regression Model:  $Y = \alpha + \beta_1 X_1 + \beta_2 X_2 + \dots + \beta_k X_k + e$

Here, Y= Repurchase Intention

$A + \beta_1$  (Awareness) +  $\beta_2$  (Frequency of purchase) +  $\beta_3$  (Budget) +  $\beta_4$  (Satisfaction regarding Quality) +  $\beta_5$  (Price quality match) +  $\beta_6$  (Brand safety) +  $\beta_7$  (economical than others) +  $\beta_8$  (After sale service) +  $\beta_9$  (Safer than BD brands) +  $\beta_{10}$  (preferred feature) +  $\beta_{11}$  (Buying decision influencer) + e



The estimated value of  $\alpha$  (constant) = 0.163 which implies that on an average the buying decision is 0.163 or 16.3% when all the independent variables calculated are ineffectual.

The estimated value of  $\beta_1$  is= -0.085 and  $X_1$ = Awareness implies that there is an inverse relationship between the repurchase intention and awareness. In other words, for every increase of 1 unit of awareness, on an average the repurchase intention will decrease by 8.5%

The estimated value of  $\beta_2$ = 0.336 and  $X_2$ = frequency of purchase implies that for every increase of 1 unit of frequency of purchase, the estimated change in the repurchase intention will increase on an average by 33%

The estimated value of  $\beta_3$ =0.095 and  $X_3$ =Typical Budget, for every increase of 1 unit of Typical Budget, the estimated change in the repurchase intention will increase on an average by 9.5%

The estimated value of  $\beta_4$ =0.456 and  $X_4$ =Satisfaction regarding quality, for every increase of 1 unit of satisfaction regarding quality, the estimated change in the repurchase intention will increase on an average by 45%

The estimated value of  $\beta_5$ = -0.251 and  $X_5$ =Price quality matching which implies an inverse relationship and for every increase of 1 unit of price quality matching, the estimated change is decrease on an average by 25%

The estimated value of  $\beta_6$ =0.478 and  $X_6$ =Brand safety implies that for every increase of 1 scale of for every increase of 1 unit of brand safety, the estimated change in the repurchase intention will increase on an average by 47%

The estimated value of  $\beta_7$ =0.204 and  $X_7$ =Economical than other brands implies that for every increase of 1 unit of Economical than other brands, the estimated change in the repurchase intention will increase on an average by 20%

The estimated value of  $\beta_8$ = 0.173 and  $X_8$ = after sale services implies that for every increase of 1 unit of after sale service, the estimated change in the repurchase intention will increase on an average by 17%

The estimated value of  $\beta_9$ = -0.147 and  $X_9$ = Safer than BD brands, which implies a negative relationship .That for every increase of 1 unit of safety than other brands, the estimated change in the repurchase intention will decrease on an average by 14%

The estimated value of  $\beta_{10}=0.088$  and  $X_{10}$ = preference for particular feature, which implies that for every increase of 1 unit of preference, the estimated change in the repurchase intention will increase by 8%

The estimated value of  $\beta_{11}= -0.206$  and  $X_{11}$ = Buying decision influencer, which implies inverse relationship. Thus, for every increase of 1 unit of buying decision influence by members increase, the estimated change in the purchase intention will decrease by 20%.

The beta values indicate that among all the factors of repurchase, awareness, price quality matching, safety compared to Bangladeshi brands and buying decision influencer have a significant negative impact on buying decision.

### **Final Regression Model with an Example**

The general regression model is:

$$Y= 0.163 + (-0.085*\text{Awareness}) + (0.336 * \text{Frequency of purchase}) + (0.095*\text{Budget}) + (0.456*\text{Satisfaction regarding Quality})+(-0.251*\text{Price quality match})+(0.478*\text{Brand Safety})+(0.204 * \text{economical than others})+(0.173*\text{After sale service})+ (-0.147 * \text{Safer than BD brands})+(0.088* \text{preferred feature})+(-206 * \text{Buying decision influencer})+0.713$$

From the study the coefficients of various independent variables are calculated in the formula.

The value of the Likert scales were less than 2 when there is disagreement, less than 3 when the respondents are not sure, less than 4 when the respondents agreed to the independent factors. This model has been tested on 20 respondents who are considered to be the potential customer and found that the model works.

Multiple regression analyses were conducted to examine the relationship between the repurchase decision and various potential predictors. Looking at the p-value of the t-test for each predictor, it can be seen that quality and safety of Chinese brands are positively and significantly correlated with the decision of further purchase, indicating that those with higher scores on these variables tend to have higher probability of buying the Chinese brands. Satisfaction regarding quality and safety concern while buying on budget shows the what the customers' gives priority in continuation of buying brands. Meanwhile, awareness of Chinese brands, perception of price and quality

matching, influential groups and safety comparison with other brands have inverse relationship with purchase intention but don't have sufficient power to detect the dependence of the repurchase decision according to the study.

We, therefore, conclude that the higher the Chinese brands ensure the affordability, quality satisfaction, product safety, customer preferences criteria and after sale services, the higher they retain the customers. We can say that the competitiveness of Chinese brands in Bangladeshi market is favorable.

### **Recommendations and Conclusion**

The aim of the study is to examine what factors affect the repurchase decision of buyers. The study tried to relate how customers in Bangladesh perceive the product quality, how often they buy and justification of price that influence them in decision making. Results of the study indicate that there is a significant relationship among the frequency, satisfaction over quality, safety and product repurchase intention.

However, we also found that awareness, price quality comparison, safety than local brands and the reference group has a negative connotation over the satisfaction. So the marketers of Bangladesh can consider these factors to take positioning strategy. Noticing the consciousness of product safety, Companies should also focus on the technological improvements.

Results from the study provide information on consumer buying behavior of foreign brands, which can contribute to the development of marketing strategies for imported brands.

For future studies concerning this topic, it is recommended to have a larger sample and analyze different possible relationships between variables. Additionally, more expensive brands and product category could be chosen.

### **References**

Andersson, E. (2015) 'Attitudes towards products "Made In China" – The importance and challenges of country of origin', Master thesis, Department of Business Administration, Södertörn University, Södertörn, Sweden, retrieved, 31/1/2020 <http://www.diva-portal.org/smash/get/diva2:850897/FULLTEXT02.pdf>

Anderson, E. W., Fornell, C. & Mazvancheryl, S. K. (2004) 'Customer satisfaction and shareholder value', *Journal of Marketing*, vol. 68, no.4, pp.172-185, SAGE Journals, retrieved, 20/1/2020 <https://doi.org/10.1509/jmkg.68.4.172.42723>

Alanazi, E. & Lone, F. A. (2016) 'Social satisfaction towards Islamic banking in Saudi Arabia: a survey', *Asian Social Science*, vol. 12, no. 1, Canadian Center of Science and Education, Canada, retrieved, 25/2/2020, DOI:10.5539/ass.v12n1p182

Ari, E. S. & C. Madran (2011) 'The role of consumer ethnocentrism and country of origin effect on purchase decision', *Oneri Dergisi*, vol. 9, no.35, pp.15-33, Publication Date 2012 retrieved, 22/2/2020, <https://dergipark.org.tr/en/pub/maruoneri/issue/17898/187754>

Bilkey, W. J. & Nes, E. B. (1982) Country-of-origin effects on product evaluations, *Journal of International Business Studies*, vol. 13, no.1, pp. 89-100, DOI: 10.1057/palgrave.jibs.8490539, retrieved, 25/2/2020, <http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.643.2099>

Bahar, D., Hausmann, R. & Hidalgo, C. A. (2014) 'Neighbors and the Evolution of the Comparative Advantage of Nations: Evidence of International Knowledge Diffusion?', *Journal of International Economics*, vol. 92, no. 1, pp. 111-123, Elsevier, retrieved, 25/2/2020, <https://scholar.harvard.edu/dbaharc/publications/neighbors-and-evolution-comparative-advantage-nations-evidence-international>

'China's 2013 trade surplus rises to \$260 billion', Updated on March 12, 2018, *The Hindu Business Line*, DPA, Beijing, retrieved, 25/8/2019, <https://www.thehindubusinessline.com/news/world/chinas-2013-trade-surplus-rises-to-260-billion/article20710340.ece>

Eshghi, A., Haughton, D. & Topi, H. (2007) 'Determinants of customer loyalty in the wireless telecommunications industry', *Telecommunications Policy*, vol. 31, no. 2, pp. 93-106, Elsevier, DOI: 10.1016/j.telpol.2006.12.005

Forbes, J. S. (2008) 'The effect of service quality and expectations on customer complaints', *Journal of Industrial*

*Economics*, vol. 56, no. 1, pp. 190-213, Wiley Online Library, DOI:10.1111/j.1467-6451.2008.00338.x Corpus ID: 51800710

George, J. & Anandkumar, V. (2015) 'Branding in China: Lessons from the foreign brand success and failure stories', SSRN, DOI:10.2139/SSRN.2695066 Corpus ID: 167787344

Gustafsson, A., Johnson, M. D. & Roos, I. (2005) 'The effects of customer satisfaction, relationship commitment dimensions, and triggers on customer retention', *Journal of Marketing*, vol. 69, issue 4, pp. 210-218, SAGE Journals, First Published October 2015, retrieved, 26/2/2020, <https://doi.org/10.1509/jmkg.2005.69.4.210>

Herrmann, A., Xia, L., Monroe, K. B. & Huber, F. (2007) 'The influence of price fairness on customer satisfaction: an empirical test in the context of automobile purchases', *Journal of Product & Brand Management*, vol. 16, no. 1, pp. 49-58, DOI: 10.1108/10610420710731151

Hanif, M., Hafeez, S. & Riaz, A. (2010) 'Factors affecting customer satisfaction', *International Research Journal of Finance and Economics*, ISSN 1450-2887 Issue 60 (2010) vol. 60, no. 1, pp. 44-52, EuroJournals publishing, Inc., retrieved, 12/3/2019, <http://www.eurojournals.com/finance.htm>

Kotler, P. & Keller, K. L. (2006) *Marketing Management*, Upper Saddle River, New Jersey, 14th edn, retrieved, 26/3/2019, [http://eprints.stiperdharmawacana.ac.id/24/1/%5BPhillip\\_Kotler%5D\\_Marketing\\_Management\\_14th\\_Edition%28BookFi%29.pdf](http://eprints.stiperdharmawacana.ac.id/24/1/%5BPhillip_Kotler%5D_Marketing_Management_14th_Edition%28BookFi%29.pdf)

Kim, M. K., Park, M. C. & Jeong, D. H., (2004) 'The effects of customer satisfaction and switching barrier on customer loyalty in Korean mobile telecommunication services', *Telecommunications Policy*, vol. 28, no. 2, pp.145-159, retrieved, 10/5/2019, <https://doi.org/10.1016/j.telpol.2003.12.003>

Kotler, P. & Armstrong, G. (2010) *Principles of Marketing*, Pearson Education, p.13, retrieved, 11/3/2019, <https://nit-edu.org/wp-content/uploads/2019/05/Principles-of-Marketing-Kotler-Armstrong.pdf>

Munnukka, J. & Järvi, P. (2012) 'The price-category effect and the formation of customer value of high-tech products', *Journal of Consumer Marketing*, vol. 29, no. 4, pp. 293-301, retrieved,

15/4/2019, DOI: 10.1108/07363761211237362

Mackiewicz, J. (2015) 'Quality in product reviews: What technical communicators should know', *Technical Communication*, vol. 62, no. 1, pp. 3-18, retrieved, 16/4/2019, [https://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=1143&context=engl\\_pubs](https://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=1143&context=engl_pubs)

Minton, E.A. (2015) 'In advertising we trust: Religiosity's influence on marketplace and relational trust', *Journal of Advertising*, vol.44, no.4, pp. 403-414, retrieved, 20/4/2019, <https://doi.org/10.1080/00913367.2015.1033572>

Parasuraman, A. (1997) 'Reflections on gaining competitive advantage through customer value', *Journal of the Academy of Marketing Science*, vol. 25, no.2, p.154, retrieved 22/4/2019, <http://dx.doi.org/10.1007/BF02894351>

Schniederjans, M. J., Cao, Q., Schniederjans, D. & Gu, V. C., (2011) 'Consumer perceptions of product quality revisited: Made in China', *Quality Management Journal*, vol. 18, no. 3, pp. 52-68, retrieved, 22/4/2019, <https://doi.org/10.1080/10686967.2011.11918322>

Sarwar, A., Azam, S. F., Haque, A., Sleman, G. & Nikhashemi, S. R. (2013) 'Customer's perception towards buying Chinese products: An empirical investigation in Malaysia', *World Applied Sciences Journal*, vol. 22, no.2, pp.152-160, retrieved, 25/1/2020, IDOSI Publications, DOI: 10.5829/idosi.wasj.2013.22.02.371

Steenkamp, J. B. (2014) 'How global brands create firm value: the 4V model', *International Marketing Review*, vol. 31, no. 1, pp. 5-29. Emerald publishing, retrieved, 16/4/2019, <https://www.emerald.com/insight/content/doi/10.1108/IMR-10-2013-0233/full/html>, DOI 10.1108/IMR-10-2013-0233

Teas, R. K. & Agarwal, S. (2000) 'The effects of extrinsic product cues on consumers' perceptions of quality, sacrifice, and value', *Journal of the Academy of Marketing Science*, vol. 28, no.2, pp. 278-290, retrieved, 22/5/2019, <https://doi.org/10.1177/0092070300282008>

Tharmi, U. (2011) 'A study on the role of brand equity in influencing the purchase intention special reference of branded baby soaps in Manmunai north ds division in Batticaloa district',

EUSL research Gateway Library, Eastern University Sri Lanka,  
retrieved, 19/5/2019,  
<http://www.digital.lib.esn.ac.lk/handle/123456789/1974>

Uyar, A. (2018) 'A Study on Consumers' Perception About Chinese Products and Their Willingness to Buy', *International Journal of Eurasia Social Sciences*, vol. 9, Issue. 32, pp. 1121-1143, retrieved, 20/3/2019, [http://www.ijoess.com/Makaleler/1640386181\\_12.%201121-1143%20ahmet%20uyar.pdf](http://www.ijoess.com/Makaleler/1640386181_12.%201121-1143%20ahmet%20uyar.pdf)

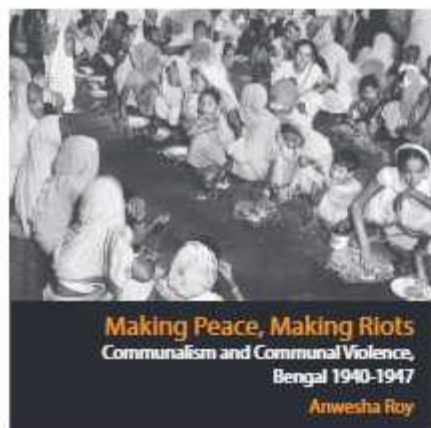
Viswanathan, M. & Sridharan, S. & Ritchie, R., Venugopal, S. & Jung, K. (2012) 'Marketing Interactions in Subsistence Marketplaces: A Bottom-Up Approach to Designing Public Policy', *Journal of Public Policy & Marketing*, vol. 31, no.2, pp. 159-177, retrieved, 23/5/2019, <https://doi.org/10.1509/jppm.11.049>

Woodruff, R.B. (1997) 'Customer value: the next source for competitive advantage', *Journal of the Academy of Marketing Science*, vol. 25, no. 2, p.139, retrieved, 24/4/2019, <https://link.springer.com/article/10.1007/BF02894350>

## BOOK REVIEW

*Making Peace, Making Riots: Communalism and Communal Violence, Bengal 1940–1947*, edited by Anwesha Roy. Cambridge University Press, 2018. Pages 277. ISBN 978-1-108-42828-6 Hardback.

Reviewed by Md. Mostafijur Rahman<sup>1</sup>



This book is critical due to its unique features of the cross-cutting issues of a turmoil period of the last seven years (1940-1947) of colonial rule in India when war, famine, communal riots (the Dhaka Riots, 1941, the Kolkata Killing, 1946 and the Noakhali Riots, 1946), and the Bengal partition affected the lives of common people of the Bengal in one hand but on the other, gave an opportunity to thrive different social and political forces that

aided and contributed in rising community identities and communal politics. Furthermore, this book analyses various socioeconomic, religious and political factors of the last seven years of British rule, the nature of identity formations in Bengal, and the Gandhian model of anti-communal conflict. The book has accomplished its purpose to a large extent. It is, therefore, a valuable reference source for academics, researchers, policymakers, students, and interested readers.

This book is edited by Anwesha Roy who was Marie Curie Post-Doctoral Research Fellow in Gandhian Politics at the Department of History, King's College of London. The author edited the book based upon a variety of sources that incorporate the national archives, Nehru memorial museum and library, and central secretariat library of New Delhi, the state archives, intelligence branch archives, records of police and intelligence branch records, the special branch archives and the national

<sup>1</sup> Ph.D Researcher and Assistant Professor, Department of Law, Prime University, Dhaka, Bangladesh. E-mail: mrlawru2001@gmail.com



library of Kolkata, the British library of London, the center of South Asian studies library of Cambridge, the library of Dhaka University, the report of the Dhaka riots inquiry committee, the gazetteers, census, legislative assembly proceedings, the Indian annual register, and various newspapers also. Thus, the author's vast knowledge and sound academic careers have increased the credibility of this book and thus fulfills an earnest the first criterion of a comprehensive historical work.

Being a Ph.D researcher and interested reader in Socio-Economic and Political History of Bangladesh, I felt a special interest in reading and reviewing this book entitled *Making Peace, Making Riots: Communalism and Communal Violence, Bengal 1940–1947*. Of course, the content of the book covers writing much interesting information on the issue, but I am to escape many of those to keep the size of the review to limited words. The book is divided into six chapters based on a study of the last seven years (1940-1947) of colonial rule in Bengal and provided a complete understanding of the pre-partition years analyzing the interaction of socio-economic and political factors that shaped community identities into communal identities.

At the outset of chapter 1 of this book, the issue of riots is the starting point of all discussion. The chapter begins with the Dacca Riot of 1941- the first major riot of the decade and focuses on the juncture of the caste, community and class symphony of the rioters in the Dacca Riot. Moreover, various components relating to riots have been discussed in this chapter. Puffed with various information and data the author proved how the socio-economic and political events and circumstances were leading to the riots in 1941. The author argues that in the riots of 1941, the properties of the Hindu merchants were attacked by the Muslims community in Dacca which results some class-based features of previous strife of 1926 and 1930 and later creates some communal violence like the Calcutta Killings and the Noakhali Riots of 1946 in the province. The author argues that, from the Dacca riots the nature and dimension of attacks, rapes of women, forced conversion, loot, arson and killing became new. In this chapter, the role of *Krishak Samitis* of 1930, the *Krishak Praja Party* (KPP), the elections of 1937, the Bengal Tenancy (Amendment) Act of 1938, the twenty-first session of the All Indian Hindu Mahasabha and the Bengal Moneylenders Act of 1940 in ending the Riot of 1941 was analyzed by the author with rapt attention. The chapter deals with the

contribution of the two communal political developments about the Secondary Education Bill of 1940 and the Census of 1941 in the appreciation of community consciousness as well as in ensnaring of caste and community identities. For instance, the identity of the Hindu community as only Hindu and various *Sangathan* activities among this community in Bengal were strengthened by the census of 1941 that was reflected in the institutional facilities such as reserved education and employment quotas. Similarly, as a result of the Secondary Education Bill of 1940, the Mahasabha, the Congress and the Muslim League rallied public opinion on communal lines that led to communal politics. Moreover, the chapter embarks the role of the police and the nature of the relief measures through which the Bengal Provincial Students Federation (BPSF) and the All Bengal Muslim Students League (ABMSL) have tried to bring accord in the province. This chapter would be helpful to those who are interested in involving themselves in knowing the socio-economic and political events and circumstances that led to the Dhaka riots, Kolkata Killings and the Noakhali Riots respectively. Furthermore they will be able to know the role of the *Krishak Samitis* and the *Krishak Praja Party* (KPP), the elections of 1937, the Bengal Tenancy (Amendment) Act of 1938, the Secondary Education Bill of 1940, and so on.

In second chapter of the book, the author discussed the Bengal famine of 1943 which was caused by the War and the cyclone of 1942 and examined its nature, causes and various social and economic effects on communal policies about the method of relief and rehabilitation. For that reason, the chapter discusses the constant exposure to death, disease and hunger created a total dependence upon relief measures in the famine where the worst sufferers in the absence of food and clothing were the landless laborers, fishermen, and artisans. Women were left with no other option but to join prostitution in face of starvation and desertion, Roy argues. Then the author analyses the nature and complexities of relief and rehabilitation to show how communal politics inserted itself deep into the relief process, how develop secular politics and how consolidate community based mobilizations by various volunteer organizations like the *Bharat Sevashram Sangha*, the Hindu Mission, the Hindu Mahasabha, the People's Relief Committee, Bengal Cultural Squad, Indian People's Theatre Association and the Progressive Writer's Association that participated majorly in the relief. In this time, these volunteer groups were able to consolidate their slogan of 'Hindu unity' amongst the Depressed Classes and community

identity and communal politics reinforced each other in the everyday domain of relief processes. The relief work politics strengthen the communal and caste identity with the Hindu Mahasabha working for upper caste Hindus and the League and the Communist Party of India (CPI). This chapter highlighted the colonial 'Denial Policy' that exaggerated the life of poor households, fishermen and the rural economy. In this chapter, the carnage committed by the US and UK armed forces, destruction caused by Japanese bombing, the ruinous cyclone, the malaria, the religious classification on the clearing of corpses, and handing them over to either the *Hindu Satkar Samiti* or the *Anjuman Mofidul Islam* are also discussed. The readers will be benefited from this chapter by knowing the nature, causes and various social and economic effects of the Bengal famine of 1943, the complexities of relief and rehabilitation, various volunteer organizations like the *Bharat Sevashram Sangha*, the Hindu Mission, the Hindu Mahasabha that participated majorly in the relief.

The Chapter 3 deals with the politics around the Bengal Secondary Education Bill (BSEB) of 1944. In this chapter, the author has talked about the identity formation of the Scheduled Castes (the Namasudras) in terms of caste and religion. The author has identified a relationship between the Depressed Classes of Bengal and the Hinduization (the Mahasabha) all over the 1940s, particularly after the famine. The author discusses about the communalization of education, which was being assumed, with the inclusion of separate electorates of Hindus, Muslims and Scheduled Castes. The introduction of separate electorates was the major obstacle for Caste Hindus to break 'Hindu unity' because they felt that they had not been given adequate representation in the Assembly. Secondly, she analyses the apprehension amongst the Hindu upper castes of the possibilities of a presumed disintegration of the Hindu identity with the lower caste Hindus feeling alienated due to the former's considerable control over the privileged jobs and status. Based on this and the politics around famine relief, Roy tries to show how the Hindu *Mahasabha* and the Muslim League negotiated with the various identities of caste and community and initiated their mass appeal. Throughout the 1940s, every contentious issue between the two communities involved Pakistan in some way. By 1946, this had become the only issue. The chapter also studies in detail the development of the Pakistan movement in Bengal and analyzes how the Muslim League transformed itself into a mass-based party tracing the socio-economic and political

climate specific to Bengal that provided for the gradual emergence of the 'socialist' or populist self-image of the League, especially during the election campaign of 1945–46. This chapter would be helpful to the readers who are intended to the identity formation of the Scheduled Castes (the Namasudras) in terms of caste and religion, the communalization of education, which was being assumed, with the inclusion of separate electorates of Hindus, Muslims and Scheduled Castes.

The fourth and the fifth deal with the two major riots of Calcutta and Noakhali in the months of August and October 1946 respectively. The first important point is that riots often create new identities and dissolve the older ones, for instance, the range of aggression in both the riots was unparalleled and frankly linked with the Pakistan issue and practically contributed to the rise of the bigger question of Pakistan, the community identities taking the dominant stand. The both riots witnessed unprecedented killings, large scale destruction, forced conversions to religion, attacks on women, and so on. Since many of the features of the riots were accompanied the division of the country, the riots can also be categorized as 'partition before partition.' For instance, violence, refugees, mass migration, patterns of relief, relief work, relief camps, and segregation of living patterns of 1946 were associated with the formal partition of 1947. In these chapters, Roy has discussed the *goondas*' role in safeguarding their respective religions in one hand and their role in protecting *bhadralok shomaj* during the riots on the other. Roy also has highlighted the important role of the Communist Party of India during the riots in coalescing religious identities. The author, in this chapter, focuses on the shifting nature of communal violence, relief and peace efforts and anti-communal resistance by both common people and organized political parties in the event of serious communal violence, like the Dacca Riot of 1941 and the Calcutta and Noakhali Riots of 1946 or understanding the limits to communal violence. This chapter would be helpful to know the range of aggression in both the Kolkata and Noakhali riots i.e., killings, large scale destruction, forced conversions to religion, attacks on women, and so on.

Chapter six deals with Gandhi's role, his politics of nonviolence, Satyagraha, and peace mission in certain aspects of combating communal violence in Bengal. For this very reason, the author emphasized the different stratum in Gandhian nonviolence

politics in Noakhali peace mission of 1946 and Calcutta fasts of 1947. For the great role of Gandhi in the context of Noakhali and Calcutta in the consequences of the riots and for his model of nonviolence and fasts, the author considered him on one side as a politician and as a 'Mahatma' on the other. By this chapter the learners would be helpful by knowing the Gandhian methods of nonviolence that is very much relevant in the 21<sup>st</sup> century in order to save and protect the human rights and humanity.

This book presents an intensive and in-depth analysis of multiple issues of the last seven years of British rule in Bengal. Considering the significance of the socio-economic and political history of India, this book is valuable addition to the existing field of research and discussion.

The book provides insightful perspectives on potential areas of peace, riots, communal violence, and communalism in the six pre-independence and pre-partition years of British India as this was one of the most widely witnessed and renowned periods of Indian history. Due to author's range of analysis, arguments, too much information, interpretations of the sources inside the book, it is immensely useful for the study of socio economic and political history of India. Policymakers, academics, researchers and various organizations will find special interest in this book.

## Invitation to Contributors

### Office Organ

Centre for Research, Human Resource Development and Publications, (CRHP) Prime University, 114/116, Mazar Road, Mirpur-1, Dhaka, Bangladesh.

E-mail : crhp@primeuniversity.edu.bd  
puhrhp@gmail.com

Website : www.journal.primeuniversity.edu.bd

### Instruction for Submission of Papers:

*Prime University Journal* is an international and interdisciplinary peer-reviewed journal published twice a year, once in January and another in July of each calendar year and is registered with National Serials Data Program, Library of Congress (ISSN. 1995-5332). The journal contains research-based articles on **Law, Education, Business, Social Science, Arts, Science, Engineering and Technology**. Contributors are requested to submit articles both in hard and soft copies for publication in the Journal. The following will be treated as broad guidelines for submission of the articles.

### Conditions of Submission

**Manuscripts are reviewed for publication with the understanding that they**

- are original;
- are not under consideration by any other publisher;
- have not been previously published in whole or in part;
- have not been previously accepted for publication;
- will not be submitted elsewhere until a decision is reached regarding the manuscript for publication in this journal;
- are completely free from plagiarism

### *Manuscript Format and Style Guide*

When the manuscripts are sent for external review, they are double-blind reviewed. So, please ensure that no authors' names are given on the first page of the manuscript and author names have been taken out of the "File-Properties" screen in word.

All manuscripts should be double-spaced and in single column. Margins should be one inch (2.5cm) at the top, bottom, left and right sides of the page. Font should be Times New Roman and size should be 12 point or larger. The manuscripts should be limited within 8000 words of text, unless an exception has been granted based on discussion with the Editors in advance of submission. This recommended word count refers to the entire content of the article, including abstract and references. Articles with heavy use of figures and/or tables should be correspondingly shorter to compensate for these. We give preference to shorter pieces.

### **Title**

The title of the article should contain the title of the article and suggestions for a short running title of not more than 90 characters (including spaces). Title should not be in statement form. Also the manuscript should include the authors' names, affiliations and contact details (including e-mail address) for the corresponding author.

### **Abstract**

Authors are requested to submit an unstructured abstract of not more than 250 words. Abstract should be informative for non-specialists.

Please make sure that the abstract page does not contain any information identifying the author(s). Also please take care to select a title and an abstract that are direct and 'readers friendly'.

### **Keywords**

Please include no more than five keywords that describe your paper for indexing and for web searches of your manuscript.

### **References in the Text**

The citations should follow the Harvard style, included by the authorship and the year of the work. Each citation requires a reference at the end of the work with full details of the source item and should enable it to be traced.

Example:

Unterhalter (2007, p. 5) argues that 'gender equality in schooling is an aspiration of global social justice'.

Personal communications should be listed as such where they are cited in the text, and not listed in the references.

Example: Results have been reported (Don Graham, 1989, personal communication).

Articles not yet published should show 'forthcoming' in place of the year (in both the reference and the citation). 'In press' should be used in place of the volume, issue and page range details.

Example

Sharp Parker, A. M. (forthcoming) Cyberterrorism: An examination of the preparedness of the North Carolina local law enforcement. *Security Journal*, in press.

## References

References should be placed alphabetically by author or authorship, regardless of the format, i.e. whether books, websites or journal articles etc.

Examples of Correct Forms of References:

### Book

Slovic, P. (2000) *The Perception of Risk*, Earthscan Publications, London.

### Edited Volume

Nye Jr, J.S., Zelikow, P.D. and King D.C. (eds.) (1997) *Why People Don't Trust Government*. MA: Harvard University Press, Cambridge.

### Chapter in Book

Foureur, M. & Hunter, M. (2005) 'The place of birth', in S Pairman, J Pincombe, C Thorogood & S Tracey (eds), *Midwifery preparation for practice*, Elsevier, Churchill Livingstone, Sydney.

### Article in Journal

Diezmann, C. M. & Watters, J. J. (2006) 'Balancing opportunities for learning and practising for gifted students', *Curriculum Matters*, vol. 5, no. 1, pp. 3–5.



### **Article in Newspaper**

Warren, M. (2007) 'Kyoto targets flouted', *Australian*, 21 November, p. 3.

**Note:** *In the reference list omit 'The' from any newspaper title.*

### **Newspaper or Magazine Article (Without a Named Author)**

'Federal election: new Chip in politics' (2001) *Advertiser*, 23 October, p. 10.

### **Journal Article from the Web**

Kennedy, I. (2004) 'An assessment strategy to help forestall plagiarism problems', *Studies in Learning, Evaluation, Innovation and Development*, vol. 1, no. 1, pp. 1–8, viewed 7 October 2005, <http://www.sleid.cqu.edu.au/viewissue.php?id=5>

### **Conference Proceedings**

Sapin, A. (ed.) (1985) Health and the Environment. *Proceeding of the Conference on Biological Monitoring Methods for Industrial Chemicals*, 30-31 March 1984, Chicago, IL. American Toxicological Association, Chicago.

### **Conference Paper**

Kell, P. (2006) 'Equality of opportunity in new times: the politics of learning and the learner in the new world disorder', *Proceedings of 4th International Lifelong Learning Conference: partners, pathways, and pedagogies*, CQ University Australia, Yeppoon, Qld, pp. 17–25.

### **Papers/Talks Presented at a Conference but Not Published**

Danaher, P., Danaher, G. & Moriarty, B. (2006) 'Supervising Australian and international postgraduate students', paper presented to the Lifelong Learning Conference, Yeppoon, June.

### **Dissertation/Thesis (Unpublished)**

Wagner, S. J. (2004) Derailment risk assessment, Masters thesis, Central Queensland University, Rockhampton.

## **Figures and Tables**

Ensure that every table or figure is referred to in the text. The table or figure will be placed as per the first mention in the text. Legends should be short, descriptive and define any acronyms, abbreviations or symbols used.

Tables should be numbered and the caption should be put above the table. The source will be straight underneath. Figures should be numbered and the caption will be underneath the figure. The source goes straight under the caption.

## **Distribution of Journal and Reprints**

One copy of journal of the article will be distributed to each of the concerned contributors.

The address of the contact person:

**F Nahid Huq**  
Deputy Director  
Centre for Research, Human Resource Development and  
Publications  
Prime University  
114/116, Mazar Road, Mirpur-1, Dhaka-1216  
Phone: 8031810/120  
E-mail: [crhp@primeuniversity.edu.bd](mailto:crhp@primeuniversity.edu.bd)

**Articles and Contributors****A Study on Debts and Its Liability under Hindu Law: State of Bangladesh**

Md. Abu Hanif

Rumana Sharmin Barsha

**Jibanananda Das and William Butler Yeats's Poems: A Comparative Study**

Md. Abdul Awal

**Digital Forensic in the Criminal Justice System in Bangladesh: A Critical Review**

Golam Sarowar

**Impacts of Using First Language at the Tertiary Level in ESL Classes: A Study at a Private University**

Rakib Uddin

**The Consequence of the Conflict between the Text and the Evaluation Process of English at the Higher Secondary Level in Bangladesh**

Shorna Akter

**Factors Influencing Customer Satisfaction Towards Buying Chinese Products : An Empirical Investigation on Bangladeshi Customers**

Zakia Razwana Haque

M. Jahangir Alam

**Book Review:*****Making Peace, Making Riots: Communalism and Communal Violence, Bengal 1940-1947,***

edited by Anwesha Roy, Cambridge University Press, 2018. Pages 277. ISBN 978-1-108-42828-6  
Hardback

Md. Mostafijur Rahman