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Judicial System And Challenges For Enforcement Of Criminal Law In Bangladesh

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ABSTRACT

Criminality is a common perception around the world. The way by which it can depict the concentration of people throughout the globe is the cruel occurrence of it. State considers the interment of such criminality in its country as inner safety challenges. Bangladesh, due to its socio-economic and socio-political issues is harboring important types of illegal offences. Organizational failure to keep its stakeholders in a controlled surroundings and the political failure to keep its citizen's moral characters upheld may have fueled the mushrooming growth of criminal activities within the country. This paper is an analysis based on the secondary information found especially from the official police statistics of Bangladesh, Non-government organizations and other reliable sources. This paper argues that Century-old legacy of laws, lack of public confidence to the law-enforcement agencies and sense of immunity after the commission of crime inspired the potential offenders of the country years after years. Here, less moral or legal education still hinders children's balanced growing up with proper civic sense. As a result, a great number of crimes in one case provoke fear among people and at a time, it generates an inherent subconscious mind of people for taking these incidents in a usual way. Impact of international terrorism and illegal drugs directed the overall offense condition of this country in an unexpected purpose. For bringing an encouraging change there, a paradigm-shift is necessary. The starting is not easy in the on hand system but that is crucial here. Strategic formulation and accomplishment of proper preparation accompanied by exercising ethical teachings can improve the condition.

Keywords: Judicial System, Challenges, Enforcement, Criminal Law, Bangladesh

INTRODUCTION

In Bangladesh procedural law greatly dominates the whole procedure of litigation. In this system litigants are engaged in an adversarial process and engaged themselves for remedies with a win or loss expectation. This system was introduced to the Indian subcontinent by the British rulers ignoring the local indigenous adjudication procedures. With all its' inherent drawbacks, the system has been made to work for centuries together with occasional amendment but after the independence of India in 1947 adversarial procedural system has been considered to be an inadequate to give desired Justice to litigants of Bangladesh. Both civil and criminal Justice System is in challenge for enforcement which is frustrating to litigants. Inefficient and partial administration, lack of proper court management, sufficient infrastructure, enforcing organization, i.e., legal professional, police, judicial officers are major factor of challenge for enforcement. To ensure rule of law courts have to uphold and protect citizen's rights and interest.

Bangladesh, on the northern coast of the Bay of Bengal, is surrounded by India, with a small common border with Myanmar in the southeast. It has an area of 147,570 sq km with a population of about 160 million. The country is low-lying fertile land traversed by the many branches and tributaries of the Ganges and Brahmaputra rivers. What is now called Bangladesh is part of the historic region of Bengal, the northeast portion of the Indian subcontinent. Bangladesh consists primarily of East Bengal. The earliest reference to the region was to a kingdom called Vanga, or Banga (c. 1000 B.C.). Buddhists ruled for centuries, but by the 10th century Bengal was primarily Hindu. In 1576, Bengal became part of the Mogul Empire, and the majority of East Bengalis converted to Islam. Bengal was ruled by British India from 1757 until Britain withdrew in 1947, and Pakistan was founded out of the two predominantly Muslim regions of the Indian subcontinent for almost 25 years after independence from Britain, its history was part of Pakistan's. West Pakistan and East Pakistan were united by religion (Islam), but their people were separated by culture, physical features, and 1,000 miles of Indian Territory. Tension between East and West Pakistan existed from the outset because of their vast geographic, economic, and cultural differences sought independence from West Pakistan. Although 56% of the population resided in East Pakistan, the West held the lion's share of political and economic power. In 1970, East Pakistanis secured a majority of the seats in the national assembly. President Yahya Khan postponed the opening of the national assembly in an attempt to circumvent East Pakistan's demand for greater autonomy. As a consequence, East Pakistan seceded and the independent state of Bangladesh, or Bengali nation, was proclaimed on March 26, 1971. The war of liberation began, and after 9 months of war, East Pakistan defeated West Pakistan on Dec. 16, 1971. An estimated three million Bengalis were killed in the fighting.

The present legal system of Bangladesh owes its *origin* mainly to 200-year British rule in the Indian Subcontinent although some elements of it are remnants of pre-British period tracing back to Hindu and Mughal administration. "It passed through various stages and has been gradually developed as a continuous historical process. The process of evolution has been partly indigenous and partly foreign and the legal system present day emanates from of the a mixed' system which have structure, legal principles and concepts modeled on both Indo-Mughal and English law." The Indian sub-continent has a known history of over five hundred years with Hindu and Muslim periods which preceded the British period, and each of these early periods had a distinctive legal system of its own. For better understanding of the pace of this development it would be convenient to divide its history into five periods- Hindu period, Muslim period, British Pakistan period and Bangladesh period.

Feature of Criminal Law of Bangladesh

Criminal control has an important place among the major concerns of government of every country, and criminal justice is at times thought by almost everyone to be part of a large public enterprise that is carried on to reduce crime- to be vanishing point if possible. Law enforcement appears to play the most important part in this larger enterprise since it involves apprehending and taking out of circulation people who have shown themselves to be socially dangerous, both those who are already known to be criminals and those who have revealed their criminal tendencies for the first time. Seizing and removing dangerous people makes the social environment that much safer, at least for the time of their removal, and there is then opportunity to change those people who have shown themselves to be socially dangerous, both those who are already known to be criminals and those who have revealed their criminal tendencies for the first time. Seizing and removing dangerous people makes the social environment that much safer, at least for the time of their removal, and there is then opportunity to change those people who are dangerous so that when they are once again free their presence will no longer constitute a danger. After the police apprehend criminals, those administering the law in courtrooms and (and courthouse corridors) try to make sure that only those persons who really have shown themselves to be dangerous by committing a crime are deprived of their liberty.

When a dangerous person is convicted he is sentenced to a custodial institution designed to prevent him from doing further harm, and he is supposed to be subjected there to a regime of correction intended to change him so that he is no longer a criminal danger. In all of this, criminal justice plays only an ancillary role that of making sure that only the criminally dangerous are deprived of their liberty and of measuring the deprivation imposed upon such people according to how criminally dangerous they have shown themselves to be. This picture of removal and correction has one other crime-prevention feature. The enterprise is designed not only to correct those who have committed crimes, but also to correct inclinations to crime before a crime is committed, by holding up as a standing threat to everyone the unpleasant consequences that a criminal may accept. In fact, the main features of criminal law of Bangladesh retribution, deterrence,

incapacitation, rehabilitation, restitution, admonition, parole, probation and the prerogative or mercy of the President which are briefly discussed in the following way.

OBJECTIVE OF THE STUDY

The objective of the study is to contribute practically challenges of enforcement in Bangladesh through examining government current strategy in this regard and to contribute theoretically in the arena of legal professional, police, judiciary, courts and other wings. The objectives of the study are as follows:

The specific objectives are

1. To explore the policy changes and consequent changes of legislation.
2. To identify the problems for Enforcement of Criminal law in Bangladesh.
3. To find out the loopholes of law enforcement agencies.
4. To provide policy recommendations

METHODOLOGY

Study Design: The primary objective of this study is to provide in-depth analysis of legislation made in pre and post independence Bangladesh regarding women and children and limitations to protect human rights abuse. In this study both qualitative and quantitative methods are used to conduct the research. Both primary and secondary data sources have been used to deal with the broad and specific objectives. The case studies and interviews with structured and semi structured questionnaire are considered as primary data. The respondents will be selected on the basis of a combination of multistage random and purposive sampling.

Research Question: In this context this study is aimed to examine the following specific and broad questions.

Specific Question

- What kind of human Right violation happened against women and children in pre independence, during independence war and post independence Bangladesh?
- Do people know about the law regarding women and children?
- Do people have faith that these laws will be implemented properly and impartially?
- Have most of the incidences of abuse of crime been reported?
- Do people fear to go to the law enforcing agencies?
- What are the constraints hinder people to seek protection of law?

Questionnaire

The first part of the research is on the knowledge and impact of women and children related law on target people. This part of the study contains apperception research conducted through questionnaire survey. The second part of the study is in-depth interviews with resource persons, policy maker and law practitioner for the better understanding of some issues which cannot be addressed through quantitative method. The initial target for questionnaire survey was 220. In addition 6 in-depth interviews have been conducted to get the insight of different issues relevant to the research arena. Interview with structured questionnaire has been conducted in 7 district of Bangladesh. Each district represented each division of the country. Each district is chosen from the name of the districts of a division. Thus a multistage random sampling procedure has been adopted for the research. The questionnaire is comprised of demographic details, background information on socioeconomic characteristics, domestic violence, dowry minimum age of marriage, and other type of violence and so on. Mainly, the questions are aimed to elicit the perception of targeted people for whom the law is made and finally impact of these laws on common women and children. The final questionnaire was largely preceded with fixed response categories to minimize non-sampling errors comprising enumerators and respondent's bias.

Case Study

Some case studies also used to ensure more in-depth nature of investigation that may not be possible through structured interviews. The cases have been taken from different secondary data sources. Widely discussed cases are taken to represent the overall situation.

Sample Design

The preliminary field visit to district courts and legal aid giving non-government organizations of 7 selected district and interaction with legal practitioner and researcher of the related field facilitated the selection of 8 venues. District court and in some cases some NGOs deal with legal issue. The selection was based on several criteria. One of them was the opportunity to understand both government and non-government sector client and their perception on reproductive health messages. The systematic sampling procedure has been adopted for each of the sample location. The targeted sample size of 210 and were divided equally, i.e. 30 individual of each of the district chosen through a combination of multi stage random sampling who came to take legal services protection. The total sample size of 210 is decided subject to the time and resource constraint for the field study. All 210 questionnaires have been processed for analysis.

The samples for questionnaire survey were selected using systematic sampling with equal probability. The selection procedure for structured questionnaire was strictly confined to be systematic in nature. The proportion of male and female respondent is decided 1:1. That means fifty percent of the respondents is female. The field study is done from 13 to 17 may in the selected 7 district.

METHODOLOGY

Study area: Eight district out of eight division in Bangladesh.

Study Design: The study was survey and case study type.

Sample Method: Purposive sampling method was used for the study.

Sample size: Total 500 respondents were selected for the study. Clients -100, Victim – 80, Police – 70, Judges – 20, Advocates – 80, Investigation officer – 70, Journalist – 80 was be selected for the study.

Sources of date: Data was collected from primary and secondary sources.

Sources of primary data: Primary data was collected from the respondents of the study area.

Sources of secondary data: Secondary data was collected from Books, Journals, Research Report, Websites of Govt. and Non Government Organizations, Internet browsing etc.

Method of data collection: Data was collected by face to face interview with the respondents.

Tools for data collection: Questionnaire was used for data collection.

Data processing: Collected data was coded and decoded entered into the computer by using suitable data entry software.

Data analysis: Data was analyzed according to the objectives of the study. The statistical analysis was done by the Computer Program Microsoft Excel.

RESULTS AND DISCUSSION

Table 1: Filling and Disposal of Cases in the Appellate Division

Nature of cases	Pending from last year	Instituted in 2007	Total	Disposed of	Year - end pending
Petition	5496	2743	8239	2950	5289
Misc. Petition	1872	1039	2911	618	2293
Appeal	1756	311	2067	652	1415
Grand Total	9124	4093	13217	4220	8997

Table 2: Statistics on Disposal and Pending Cases in the High Court Division

Year	Civil	Writ	Original	Criminal	Total	Total Disposed	Pending at the end of year
	1	2	3	4	5	6	7
2002	55594	20176	1072	59037	135879	27338	154168
2003	58214	21666	1443	72845	154168	23455	168447
2004	61005	24261	2273	80908	168447	17853	184811
2005	65112	27177	2649	89873	184811	19322	208389
2006	68642	32372	3083	104292	208389	15962	240483
2007	71816	40936	3525	124206	240483	25689	262349

Table 3: Filing and Disposal of Criminal Cases in the Session Court

Year	Pending at the beginning of year	New cases filed	Total	Disposed	Transferred	Pending at the end of year
1	2	3	4=(2+3)	5	6	7=(4-5+6)
2002	108527	110451	218978	87860	10854	120264
2003	120264	126320	246584	90217	11369	144998
2004	144998	120658	265656	99453	7517	158686
2005	158680	123837	282523	100123	11284	171116
2006	171116	147731	318847	104575	9061	205211

Table 4: Pending cases throughout the Country

Year	Court	Pending cases	Total pending in the Country
2004	AD	5737	764017
	HCD	184811	
	District Courts	573469	
2005	AD	6770	824371
	HCD	208389	
	District Courts	609212	
2006	AD	9124	921509
	HCD	240483	
	District Courts	671902	
2007	AD	8997	1380008
	HCD	262349	
	District Courts	1108662	
2008	AD	9375	1829165
	HCD	293901	
	District Courts	1525889	

Figure 8: Filing of All cases in the High Court Division (2010-2016)

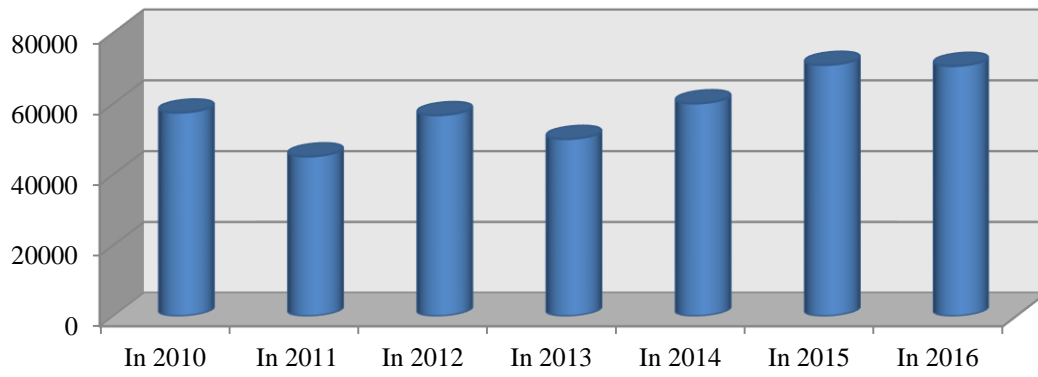


Figure 9: Disposal of All cases in the High Court Division

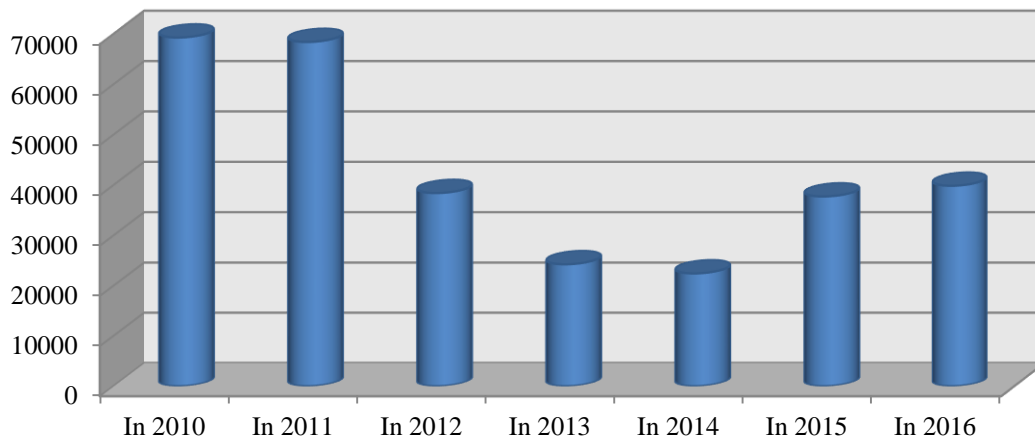


Figure 14: Pending of All cases in the High Court Division

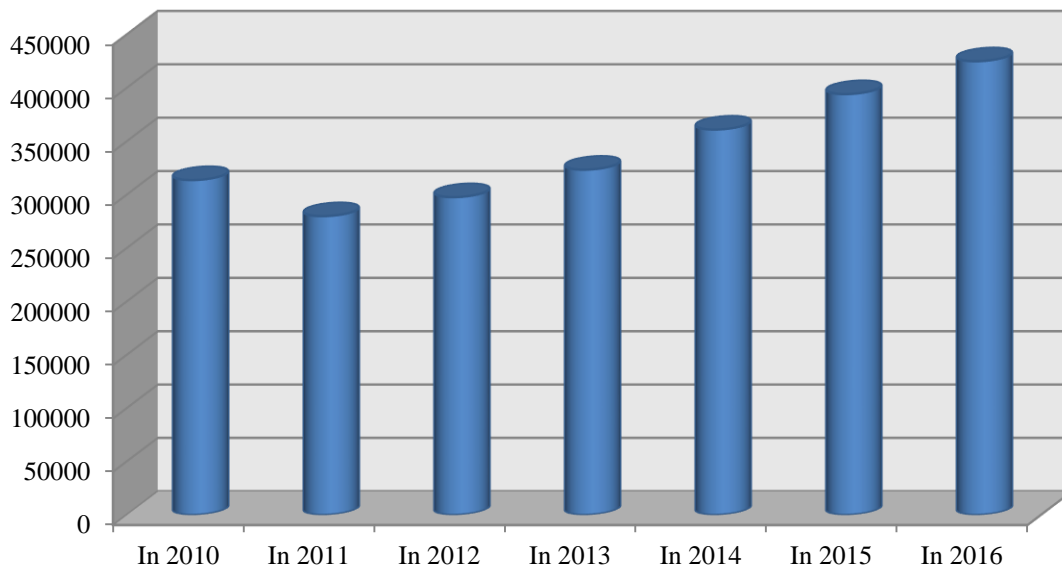


Table: 2 Summary of statuses of cases in Appellate Division of Supreme Court

Year	Pending cases at the beginning of year	New cases filed	Total cases pending	Total cases disposed	Total pending at the end of year	Percent of cases disposed
2010	1138	1277	2415	246	2169	19.3%
2011	2169	1101	3270	365	2905	33.2%
2012	2905	1423	4328	588	3740	41.3%
2013	3740	1212	4952	1321	3631	109.0%

Table: 3 Summary of statuses of cases in High Court Division of Supreme Court

Year	Pending cases at the beginning of year	New cases filed	Total revived cases	Total cases pending	Total cases disposed	Total pending at the end of year	Percent of cases disposed
2010	117841	17482	357	135680	12601	123079	70.6
2011	123079	19117	394	142590	16276	126314	83.4
2012	126314	25121	353	151788	14329	137459	56.2
2013	137459	19672	201	157332	11881	145451	59.8

Table 4: Summary of statuses of cases in Judge Courts and Magistrate Courts by district

Type of court by district	Pending cases at the beginning of year	New cases filed	Total cases pending	Total cases disposed	Cases disposed through ADR	Cases transferred	Total pending at the end of year	Percent of cases disposed	Percent of clearance
Judge Court									
Dhaka	92474	36251	128725	16429	0	13761	98535	45.3	83.3
Kishoreganj	5031	3482	8503	2262	0	401	5850	65.0	76.5
Rangamati	1580	220	1800	402	0	0	1398	182.7	182.7
Total	99085	39953	139028	19093	0	14162	105783	293	342.5
Average per district	33028.33	13376.67	46342.67	6364.33	0	4720.67	35261	97.67	114.17
Magistrate Court									
Dhaka	40203	38716	78919	29798	0	2450	46671	77.0	83.3
Kishoreganj	6250	3132	9382	2714	0	192	6476	86.7	92.8
Rangamati	1667	1018	2685	1397	0	0	1288	137.2	137.2
Total	48120	42866	90986	33909	0	2642	54435	79.1	85.3
Average per district	1604	14288.7	30328.7	11303.0	0	880.7	18145.0	79.1	85.3
Average on grand total per district	104950	55620.0	160548.0	35432.5	338.0	10569.0	114220.0	64.3	83.3

SUMMARY & RECOMMENDATION**1. Policy for law enforcement:**

The increasingly international nature of crime makes the swift and efficient availability of data essential in modern law enforcement, subject to appropriate safeguards. The ability for law enforcement agencies to conduct point-to-point data exchange is critical for developing lines of enquiry, identifying suspects and informing appropriate action. The value of direct police-to-police information sharing can be maximized through the use of processes and systems that ensure the availability of data through reliable, secure channels and with a clear legal framework for data protection. Increasing volumes of data create a greater need for connecting different sets of data quickly and securely, while ever more sophisticated analytical capabilities enable this. Multilateral data exchange and centralized storage, analysis and dissemination of data are invaluable. For example, being able to wash biometric data against large data sets of fingerprints, facial images and DNA adds a level of accuracy when identifying individuals involved in criminality, particularly where aliases and fake identification documents are used.

The value of systems for data exchange includes their speed and also their reach. Likewise the systematic nature of exchange of information such as criminal records can help to deliver fair and robust justice. While effective methods for sharing and analyzing law enforcement data are crucial for initiating action, they are also vital for law enforcement officers to be able to implement streamlined processes for practical operational cooperation with other countries. Investigators and prosecutors greatly benefit from streamlined processes to allow for the collection of evidence, the arrest and transfer of suspects and offenders, and the enforcement of penalties and confiscation of criminal proceeds. Through them, countries can cooperate effectively with one another at each stage of proceedings to help prevent criminals from using international borders to avoid detection and justice. These measures enhance law enforcement agencies' ability to identify and pursue threats and the individuals behind them, as well as assisting judicial authorities in delivering appropriate justice. Being able to trace individuals linked to criminal activity and terrorism, regardless of where they are in Bangladesh, is crucial for tackling cross-border crime. Law enforcement officers also need to be able to initiate operational action quickly in response to real-time developments in criminal activity.

2. Separate Investigation Authority:

At present police mainly entrusted with maintaining law and order investigates offences committed within the area of each police station and Public Prosecutor conducts criminal cases in the court of session and a police officer in the court of Magistrates. As police remains busy with maintaining law and order much time is taken in completing investigation of an offence and thus there is much delay in prosecuting the offender or offenders, production of witnesses and appearance of the investigating officer before the court. 80 criminal cases cannot be disposed of expeditiously. To avoid such difficulties and to increase quality of investigation a separate investigation authority should be constituted with trained investigators under the supervision of the Public Prosecutor in each district. An advocate of at least fifteen years practice in criminal matters should be appointed a Public Prosecutor in a district by the Government from a panel prepared by a committee consisting of the District and Sessions Judge, District Magistrate, Chairman of the local Municipality and the District Council. Public Prosecutor shall supervise the works of investigation officers and evaluate the investigation report and prosecute those offenders only against whom sufficient evidences have been collected warranting a conviction. It will be the responsibility of investigation officers to produce the witnesses before the court at the time of trial. Main responsibility of the Public Prosecutor shall be to prosecute the offenders and to conduct the case against them in court with the help of Assistant Public Prosecutors appointed by the Government from a panel of advocates of at least seven years practice in criminal matters prepared by such committee. Public Prosecutor or Assistant Public Prosecutors shall be removable from their office by the Government for misconduct or neglect of duty on the basis of a report submitted by the District and Sessions Judge after enquiry of such allegation. Government's declared policy to create separate investigation authority and independent prosecution service has not yet been implemented.

3. Role of Arbitration Awards:

Usually in commercial or other contracts stipulation for referring any dispute arising from such contract to arbitration is made to avoid litigation. But provision for making the award decree of the court and to file objection against the award in court under the now repealed Arbitration Act 1940 lengthened the process and delayed disposal of the matter. To avoid such delay newly enacted Arbitration Act 2001 amongst others, provides for executing the arbitration award treating the same as a decree of the court and allowing an aggrieved party to apply to the court for setting aside the award. But no condition has been imposed on such applicant who would seek setting aside of the award. To prevent filing of frivolous applications and delay in disposal of such applications the applicants should be required to deposit in court half the amount payable under the award before filling such applications.

4. Proper and speedy Justice for Economic Development:

Failure to properly maintain law and order in the country, inability to quickly punish the offenders and absence of speedy and proper remedy for the injury and loss caused to any person by another violating his legal rights give rise to social unrest as well as hamper economic development by discouraging local and foreign investors to invest their money in trade, commerce and industries. There is no two opinions about speedy trial and punishment of offenders and granting relief to the aggrieved person for the injury and loss sustained by him. For the aggrieved person Court is the last resort for getting speedy and proper relief. For making the administration of Justice effective and fruitful as honest, efficient and diligent judges are required so also efficient, dutiful and responsible lawyers are necessary. Without efficient judges and lawyers no system of administration of justice can be fruitful. How far our administration of justice has been successful in doing speedy trial of offenders and punishing them and delivering speedy and effective relief to the aggrieved persons adversely affected by violation of their rights and if not what are the causes for the same are required to be discussed and identified and to find out how to remove those obstacles. One of our weaknesses is that we do not face any problem by examining the same with objective facts and figures for solving the same. On the other hand persons connected and involved with such problems blame each other without attempting to solve the same. When there is a problem real cause for the same is to be found out after making proper enquiry and then to take steps for solving the same.

5. Measures for law enforcement:

Different measures could be initiated or extended that would tend to promote better law-observance. However, for the purpose of this article, only very broad strokes will be used to fill in a rather large picture. Of immediate concern, it can be suggested, to maintain law enforcement as a strong protective service in a free society, are four major goals:

i. Community Education: This is a program long overdue that merits high priority. People must be aroused to their responsibilities to keep their communities good places in which to live. Organizations like the American Civil Liberties Union, National Council of Christians and Jews, and the National Lawyers Guild whose objectives embrace community education, should spearhead educational programs at the community level to enlighten people about criminal laws and emphasize the citizens' duty to actively support their law enforcement agencies.

ii. Public Apathy: This is an infection that is a painful affliction to law enforcement. It is a trait that often characterizes the attitudes of public officials and educators toward the selection and training of prospective and practicing law enforcement personnel and in the quality of the leadership assigned to direct law enforcement operations. They need to become better informed about law enforcement and accept the fact that law enforcement, in one form or another, is an essential arm of government and then insist that its personnel measure up to the tasks to be performed.

iii. Arrest Laws: The archaic arrest laws of a past century that now regulate the enforcement activities of federal, and most state law enforcement officers, should be revised. Contemporary arrest laws are inadequate in an age of moon shots, cobalt bombs, and telstars, to deal effectively with the criminal who utilizes the most recent advances of science for his own nefarious purposes. Without enacting Arrest Laws Enforcement will be hampering.

iv. The Exclusionary Rule: This judicially created rule of evidence now "constitutionally required" represents a formidable opponent, in its present form, to effective law enforcement. The prime architects of the rule could be persuaded, perhaps, to remove or to temper its impact, if state governments would take action to keep the threat of unreasonable searches and seizures properly bounded. "It is submitted that such legislation would be a strong incentive to move political subdivisions to provide competent law enforcement services as well as to take a greater interest in their activities. The law enforcement and criminal justice 'toolkit' has developed over many years in response to changes both in the nature and international security threats and in the increased movement of people across borders. The enforcing tools in this area support law enforcement and the criminal justice system work in:

- preventing potential criminal activity and terrorism;
- detecting criminal activity and terrorism;
- investigating criminal activity and terrorism;
- prosecuting those accused of terrorism and other serious crimes; and
- admining justice.

6. The Ideal Judiciary and law enforcement:

Among the manifold ideals, personal integrity is the most important one. Free-mixing with the people including the Court officers is one of the obstacles in the way of becoming an ideal Judicial officer. A Judicial officer should try to avoid mixing freely with the members of the public and lawyers who may take this acquaintance as an opportunity to make some monetary gain at the expense of the Magistrate. So an ideal Judicial officer should abstain himself from mixing freely with the court officers and public in general, but he should take special care so that nobody can shell his name behind his back. In this regard it worthwhile to refer to the principle of natural justice. "Justice should not only be done, but should seem to have been done". This is mainly to improve the confidence in the parties as well as in the people at large who happen to be interested in the case that the Judicial officers have to act with restraint and desertion and with utmost care and reservation; while dealing with the case they should not associate themselves either with the parties or with their counsel in course of trial. Although in England, America and some other foreign countries were the people are more enlightened, association between the Judge and the Lawyer while the case is in progress does not give rise to any suspicion in the minds of the people that the Judicial officers could be influenced, but in a backward country like ours, people mostly coming from villages and having no idea of the true function of the Lawyer or the Judge, they are not so much conscious of their duties and responsibilities and as such this sort of association is likely to give rise to an apprehension that the Judicial officers would be inclined to show favour to the party represented by such a Lawyer. It would not be, therefore, safe for the judicial officers in Bangladesh to adopt British standard in this particular country like ours for the purpose of adjusting the conduct of the judicial officers so as to inspire confidence in the mind of people that the conduct.

7. Suggestive improved Policy for the police:

Adverse comments and blames are common factors against the police. Corruption, dishonesty, inefficiency, oppressive method of investigation utterly failed to win the confidence and co-operation of people. Instances of brutality, violence and even rape committed by police with persons under their custody are frequently reported by the media which sensitive public and people begin to think police as a foe rather than a friend. The judiciary has made the following suggestions for improvement of police image:-

- 1) Policemen should be made to understand that they are basically to help the public and not harass them.
- 2) The use of force should be minimized to the barest necessity so that public voluntarily extends a helping hand to the police.
- 3) In order to win public co-operation and support, the police must demonstrate absolute impartiality in its work without being influenced by the pressure from political high ups.
- 4) Proper training should be imparted to policemen of all ranks and they should be apprised of the latest techniques of crime detection and investigation.
- 5) The police force should be adequately staffed and equipped with latest weapons to meet new challenges.
- 6) The police machinery should be insulated from political interference as recommended by dharmvira commission report.
- 7) Surprise visits to police stations and similar units of senior officers should be intensified, this would help in early detection of persons held up in unauthorized custody and subjected to ill-treatment.
- 8) Tortured victims should be dealt with sympathetically and should be adequately compensated and also provided necessary medical treatment and rehabilitation.

9) The strategy of the police is designed to realize the following objectives:

- i. To combat all forms of crime and to cleanse the society of wrongdoers.
- ii. To protect the national security against elements which seek to undermine legality and the rule of law.
- iii. To protect individual safety and to safeguard his personal freedom, rights and property.
- iv. To protect and safeguard institutions and public facilities.

10) The strategy is based on the following foundations:

- a. To protect the society against crime, harmful and subversive conceptual trends, and deviate behavioral patterns.
- b. To modernize law enforcement organs by upgrading their mechanisms, improving their cadres and providing them with up to date technical facilities.
- c. To adopt scientific methods in police operations, to develop police techniques and support scientific research in relevant specialized areas.
- d. (4) To increase the effective involvement of the population in addressing crime, and to secure their support of policemen in performing their duties.
- e. (5) To promote regional and international cooperation and to establish mutual security relations in order to develop social control mechanisms, upgrade human capabilities and benefit from the exchanges of experiences with other countries for combating crime.

11). Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs' departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve

12). Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

13) Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy. To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department's website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

14) Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.

15). Law enforcement agencies should proactively promote public trust by initiating positive non-enforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies. When people think of police, the images that probably come to mind involve handcuffs or traffic tickets. In fact, arresting offenders - both necessary and occasionally dangerous - does not constitute the majority of police time. Officers spend most of their time keeping the peace, problem-solving social issues, meeting with people and generating reports and records.

16) Law enforcement must balance enforcement strategies against the greater good for the communities we serve. We must be sensitive to any organized law enforcement activities that may be viewed as "sweeps" to avoid casting a too wide a net at the risk of damaging our credibility. Toward these goals we strive to:

17) Research conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy.

18) Police should do more good than harm. We understand that police operations may occasionally produce negative impacts on communities and we consider alternatives to mitigate those impacts when conducting law enforcement operations. Although the Sheriff's Office is not a research-producing organization, we regularly provide data to researchers, work with independent evaluators on various initiatives, keep up with the latest information about criminal and social trends and continuously train to best police practices.

19) Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionately affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.

20) These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

21) Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

8. Final Recommendations

The study presents a number of findings. The formal justice system, though it faces some serious problems, such as delays and the case backlog, is still trusted by citizens, as it is able to adjudicate cases neutrally and independently. However, there are clear restrictions on citizens' ability to access the formal justice system. There are some measures which can be taken to ameliorate this situation.

- The judicial system should be made truly independent. All institutions, from the lower court to the higher court, should be allowed to function without outside interference, and special legal arrangements should be implemented to this effect.
- Citizens' confidence in the judiciary will be improved if the system is freed from political pressure. The administrative function of the judicial service, such as appointments, postings and transfers, should be performed by the judiciary itself. Judges and other persons in important posts should be appointed on a meritocratic basis, free of political considerations.
- A work load analysis should be undertaken across the formal justice system, and the number of staff adjusted accordingly. Such steps are necessary to reduce the case backlog. New courts, tribunals, appellate courts and other institutions should be established in order to support this effort.
- A computerized case documentation and management system should be introduced, in order to provide access to information for citizens seeking to use the formal justice system. This would include all relevant information, such as a general diary, First Information Reports, and details on the current status of individual cases. This should be easily accessible online.
- Audio and video evidence is not currently legally acceptable as evidence. Laws should be changed to make such evidence permissible, which, aside from the clear justice implications, could increase the speed at which cases are disposed of.
- Modern communications systems, such as mobile phones and SMS, should be used to inform citizens of summons.
- An effective monitoring system of the judicial system should be established to eradicate serious complaints of undue influence and corruption in the judiciary. There is currently a Monitoring Cell in the Supreme Court, but this is not sufficient, and new approaches to monitoring should be developed. This should have the power to recommend measures against judges if they are found prima facie guilty of such offenses.
- NGOs should raise citizens' awareness of legal issues and the formal justice system. This could be achieved through a media campaign, including text messages and including such issues in textbooks.
- The Police should establish a new administrative unit, which will be responsible for liaison with the legal system. This would ensure faster communication between the police and the courts, and would make the police force itself more accountable.
- Approaches to formalizing or institutionalizing the shalish system may be considered.
- ADR can be a very useful tool for reducing the workload of the courts. A full policy approach and legal framework should be developed in order to encourage and facilitate the use of ADR in the legal system. Alongside family disputes, criminal cases could also be bought into the ADR framework and plea bargaining.
- Training programs, based on a needs assessment, should be conducted, in order to improve human capacity in all areas of the legal system.

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