

# JUSTICE, HUMAN RIGHTS, AND LEGAL REFORM: A PROGRESSIVE CRIMINAL JUSTICE MODEL FOR BANGLADESH

*JUSTIÇA, DIREITOS HUMANOS E REFORMA LEGAL: UM MODELO PROGRESSISTA DE JUSTIÇA CRIMINAL PARA BANGLADESH*

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## Abstract

This research provides a methodological and theoretical analysis of the structural barriers to Bangladesh's criminal justice system, describing it as a culturally embedded scholarly problem influenced by colonial histories, procedural injustice, and institutional human rights violations. The study critically investigates how justice is undermined on an ongoing basis in contravention of constitutional safeguards and international human rights responsibilities. It proposes a progressive, rights-based criminal justice paradigm for Bangladesh, combining restorative justice philosophy with democratic law change. This work contributes to a paradigm shift toward inclusive justice rather than retributive justice by encouraging an inventive confluence of legal theory and reform practice. The research, which focuses on national shortfalls but is guided by international human rights standards, provides a widely repeatable method for assessing legal change in the context of justice and human rights. The findings are particularly valuable for academics, politicians, and practitioners working to establish of decolonized and transitional justice frameworks.

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Received: 04 Aug 2025

Accepted: 21 Aug 2025

Published: 29 Aug 2025

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**Keywords:** Bangladesh. Criminal Justice Reform. Human Rights. Restorative Justice. Social Democracy.

## **Resumo**

Esta pesquisa apresenta uma análise metodológica e teórica das barreiras estruturais ao sistema de justiça criminal de Bangladesh, descrevendo-o como um problema acadêmico culturalmente enraizado e influenciado por heranças coloniais, injustiças processuais e violações institucionais de direitos humanos. O estudo investiga criticamente como a justiça é continuamente enfraquecida em contravenção às salvaguardas constitucionais e às responsabilidades internacionais de direitos humanos. Propõe-se um paradigma progressista de justiça criminal, baseado em direitos, para Bangladesh, que combina a filosofia da justiça restaurativa com mudanças democráticas na legislação. Este trabalho contribui para uma mudança de paradigma em direção a uma justiça inclusiva, em vez da justiça retributiva, ao incentivar uma confluência inventiva entre teoria jurídica e prática de reforma. A pesquisa, embora centrada nas deficiências nacionais, é orientada pelos padrões internacionais de direitos humanos e oferece um método amplamente replicável para avaliar mudanças legais no contexto da justiça e dos direitos humanos. Os resultados são particularmente valiosos para acadêmicos, políticos e profissionais engajados na construção de estruturas de justiça decolonial e de justiça transicional.

**Palavras-chave:** Bangladesh. Reforma da Justiça Criminal. Direitos Humanos. Justiça Restaurativa. Democracia Social.

## 1. Introduction

The criminal justice system in Bangladesh is rooted in a complex historical context that includes coercive law enforcement practices, colonial legislation, and procedural inequalities. Even though Bangladesh is a signatory to several international human rights treaties, such as the Convention Against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR), and its Constitution guarantees fundamental rights like life, liberty, and due process, there is a big disconnect between the conditions that crime victims face when they try to get justice, especially those who belong to vulnerable groups in society (UNHRC, 2023). In recent years, the criminal justice system in Bangladesh has received criticism for arbitrary detention procedures, claims of custodial torture, lengthy delays in judicial hearings, and a lack of access to adequate legal counsel. These issues remain at the forefront of national and international debate (Amnesty International, 2024).

The Penal Code of 1860, Criminal Procedure Code of 1898, and Evidence Act of 1872 were written largely to serve colonial government purposes rather than furthering democratic justice. While such laws have been reinterpreted piecemeal throughout time, they nevertheless lack the capacity to handle modern-day concerns related to human rights, technological advancements, and the delivery of justice in response to social imperatives. Therefore, the legal reform process in Bangladesh should not be viewed as a simple technical or administrative effort. In contrast, the Commission's statement of findings is interpreted as a fundamental shift in sociopolitical norms, with justice viewed as an experience field, particularly for vulnerable and marginalized sectors of society (ICJ, 2022).

The criminal justice institutions in Bangladesh are not only overburdened and underfunded, but they also operate under a legal culture that often prioritises state authority above individual liberties. Evidence-based studies conducted by national and international organisations reveal the widespread use of torture, coerced confessions, and ongoing delays in the legal system.

The judiciary has faced criticism for its uneven implementation of rights-based jurisprudence, case backlog, and vulnerability to executive interference, even though it is constitutionally independent (Transparency International Bangladesh, 2021). In addition to legislative flaws, legal reform in this setting must address institutional practices, legal culture, and the larger political economy of justice. Bangladesh needs a sophisticated criminal justice system that incorporates democratic accountability, restorative justice, and human rights. This intended model seeks to promote dignity, social inclusion, and rehabilitation in place of the current

justice system, which is largely focused on punishment and control. The proposed model aims to involve communities, recognize responsibility between victims and offenders, and include rather than punishment and jail time (Council of Europe, 2022).

The primary research question of this study is, how does the criminal justice system of Bangladesh reinterpret itself as a contemporary, rights-based system that complies with both international human rights norms and constitutional requirements? A set of related questions is proposed to define the conceptual framework for this broad research. First, what is the extent to which international and comparative criminal justice systems, especially in the Global South jurisdictions with comparable circumstances, respond to the difficulty of striking a balance between the demands of criminal law enforcement and human rights protection? This one enables comprehension of reform paths and experience that are appropriate for the setting. The second question put forward by this research is: What are the most important conceptual, legal, and methodological instruments required to build an inclusive, equitable, and accountable criminal justice system? When taken as a whole, these questions seek to direct a normative and applied analysis of legal reform in Bangladesh that is based on both regional demands and universal justice ideals.

To address these questions, the study employs an eclectic methodological strategy that includes a doctrinal analysis of Bangladesh's criminal laws in relation to constitutional provisions, as well as a comparative law methodology to look for progressive models in South Africa, Kenya, and Colombia. These nations, like Bangladesh, are dealing with the colonial legacy of legal systems, political turmoil, and the need for institutional transformation. Furthermore, the study employs socio-legal and normative theoretical paradigms, such as restorative justice and critical legal pluralism, in an effort to rethink justice as more than the state's punishment. The inter-disciplinary approach enables a more sophisticated and contextualised understanding of both issues, as well as some potential avenues for legal reform in Bangladesh.

The study is of particular importance since it offers three important insights. At first, it views Bangladesh's criminal justice reform as a human rights intervention model rather than a technical fix or reaction to institutional failure. Second, it calls for a new legal model that integrates victims, rehabilitation communities, and procedural justice. It offers a normative and useful roadmap for optimising justice through organisational redesign, legal education, and policy.

Although the primary focus of this study is national, it is influenced by

regional and global trends. It uses regional human rights case law, particularly from South Asia and Sub-Saharan Africa, and the development of the European Union's idea of restorative justice (Council of Europe, 2022) as comparative examples. It aims to contribute to broader discussions on transformative justice, postcolonial criminal law reform, and decolonising criminal law.

Lastly, its contribution to study and policy-making is demonstrated to be both intellectual and practical. It provides concrete guidelines for organisational transformation, legislative change, and progress in the area of justice to decision-makers. It links Bangladesh's legal reforms to other international initiatives aimed at promoting equity, dignity, and rights-based governance. The article thus supports the broad goal of the International Journal for Crime, Justice, and Social Democracy by allowing for the critical analysis of power, justice, and law in a variety of social contexts.

## **2. Theoretical and Methodological Framework**

A theoretical framework that transcends official institutional research and black-letter legislation is required to understand the shortcomings and possibilities of Bangladesh's criminal justice system. Postcolonial legal theory, critical socio-legal theory, and restorative justice theory are cited in this article. These theories provide normative guidance towards a more democratic and inclusive form of justice while also allowing one to challenge the punitive paradigm that has been ingrained in Bangladeshi criminal law. The article's methodology allows for both descriptive and prescriptive contributions.

### **2.1 Restorative justice as a normative framework.**

Restorative justice, which aims at resolving disputes through victim involvement and, community involvement, is becoming more widely accepted as an alternative to adversarial criminal proceedings (European Council, 2022). Restorative justice aims to promote accountability, repair, and conversation rather than exclusion via punishment. Restorative justice seeks to humanise justice by prioritising healing over vengeance.

Restorative justice has been institutionalised worldwide in various modalities, such as mediation between victims and offenders, community conferencing, and community courts. These innovations are grounded in voluntary participation, dignity, and proportionality. While Bangladesh has not yet formally integrated restorative

justice into law, the paper addresses the assumption that justice must equate with punishment by using restorative justice as a theoretical reference point. It opposes a change in criminal law to relationship responsibility, and more broadly, in the case of nonviolent and socioeconomically driven crime, which now burdens the legal and prison systems. It also allows for a gender-sensitive and trauma-informed approach to justice, which is necessary in a setting where victims are threatened with re-victimization by adversarial procedures (Amnesty International, 2024).

## 2.2 Critical Sociolegal Theory and Legal Pluralism

While restorative justice has a normative vision, critical socio-legal theory gives analytical tools for challenging why Bangladesh's criminal justice system currently fails to produce real justice. The myth that law is objective or neutral, since legal systems tend to inscribe hegemonic power relations, reflecting social inequities and marginalising dissident voices (International Commission of Jurists [ICJ], 2022). In Bangladesh, this may be observed in the selective criminalisation of the poor, political opponents, and religious or ethnic minorities, suggesting that the law is not applied consistently but selectively.

One of the basic findings of socio-legal theory is that there is legal pluralism, or the coexistence of multiple normative orders in a society. Islamic law, customary standards, and community-based conflict settlement processes are part of the Islamic law. While formal criminal justice systems dominate the official criminal justice system, informal dispute resolution systems such as shalish - an existing social system for informal adjudication of petty disputes both civil and criminal, by local notables, tribal justice councils, and NGO-facilitated mediation all play important roles in settling local conflicts. They are likely to be more accessible, culturally appropriate, and procedurally efficient, but they are not immune to the dangers of informal injustice or gender-based discrimination (Transparency International Bangladesh, 2021).

The article opposes monolithic views of justice and advocates for hybrid approaches to legal change. These include allowing for the power of communal justice while still ensuring that constitutional and human rights standards are respected. This is particularly important in rural and marginalised areas, where conventional legal institutions are geographically and economically unavailable.

## 2.3 Postcolonial Legal Critique

postcolonial legal theory opposes the imposition and preservation of colonial legal systems on the legal systems of postcolonial governments. Bangladesh's criminal justice system is still inextricably linked to British colonial legislation, which was originally designed to oppress rather than empower indigenous peoples. The continued use of the Penal Code 1860, the Code of Criminal Procedure 1898, and the Evidence Act 1872 is the finest illustration of epistemic inertia that impedes substantive reform (Human Rights Watch, 2023).

Such rules are not just outmoded, but also structurally hostile. Laws are frequently based on legal vocabulary, procedures, and ethics that do not fully understand justice, responsibility, and community in the circumstance. Furthermore, the establishment of colonial policing agencies and prosecutorial pyramids has created an environment of impunity, coercion, and secrecy (UNHRC, 2023). This article uses postcolonial theory to critic not just the substance of present laws, but also the sources and procedures that give law legitimacy in Bangladesh.

This conceptual design illustrates the need for decolonising criminal justice— not only legally, but also in terms of legal training, judicial philosophy, and ordinary views of justice. It therefore contributes to a growing corpus of literature from the Global South that challenges Eurocentric legal frameworks in favour of more participative, contextual, and plural legal systems.

## 2.4 Methodological Approach

The research paper uses a multi-method qualitative approach to put into practice these theory-informed findings, including:

**Legal doctrinal analysis** Examining Bangladesh's significant criminal laws, constitutional clauses, and court rulings closely in order to identify any gaps, contradictions, or potential reform areas. Institutional duties, punishment, crime definitions, and procedural rights are given particular attention.

**Comparative legal reform:** Gaining knowledge from the legal reform experiences of jurisdictions in similar circumstances, such as those with a colonial legal heritage, significant sociopolitical upheaval, and rights-based reform agendas. Examples of this include Kenya's legal pluralism policy, South Africa's post-apartheid restorative justice system, and Colombia's transitional justice initiatives. These nations provide creative ideas and cautionary tales that can be used to Bangladesh (Council of Europe, 2022).

Normative legal analysis referring to UN SDGs, particularly Goal 16: Peace, Justice, and Effective Institutions; and international human rights law, such as the ICCPR and CAT. This level of study helps in assessing Bangladesh's compliance with international standards and identifying normative gaps in the country's present legislation and policies.

Institution and policy critique: This article analyses the performance of key institutions such as the police, courts, and legal aid systems based on current national reports, empirical data, and submissions from interested parties to the UN. These techniques allow for a more thorough analysis of Bangladesh's criminal justice problems as well as theory-based, situation-specific reform suggestions. Methodological rigour is intended to produce useful, practical information for practitioners in civil society, legal studies, and policymaking.

### **3. Contextualizing Criminal Justice in Bangladesh**

To comprehend the current state of the Bangladeshi criminal justice system, the historical roots, institutional inadequacies, and structural features must all be considered. These elements are all linked to broader issues about legal pluralism, government accountability, and human rights. Despite the fact that Bangladesh's Constitution emphasises justice, the rule of law, and human dignity as state ideals, the destitute, minorities, and politically disadvantaged groups are regularly subjected to systemic harassment and institutional apathy. Statutes and an oppressive legal culture from the colonial past have had a long-lasting influence on a highly punishing, insular, and procedurally inaccessible judicial system.

#### **3.1. Structural Continuity and Colonial Legal Legacy**

British India left behind the legal foundations of Bangladesh's criminal justice system, such as the Evidence Act of 1872, the Penal Code of 1860, and the Code of Criminal Procedure of 1898. The fact that particular legislative provisions have typically retained their substance, notwithstanding later form revisions, demonstrates colonialism's epistemic legacy in the modern legal system (UNHRC, 2023). These laws were never intended to provide colonised people justice; rather, they were enacted to quiet discontent, restore order, and re-establish imperial rule. This practice continues today through the implementation of ambiguously written legislation that criminalises disagreement, such as the Digital Security Act of 2018, which has received strong criticism for allowing censorship and arbitrary incarceration (Amnesty International, 2024).

The continuance of this colonial logic assures that justice in Bangladesh will

be state-centred rather than citizen-centred, with an emphasis on maintaining public order and protecting state institutions at the expense of individual liberty. As a result, laws are more likely to be implemented by force than by agreement, and police agencies profit from military-style operating procedures rather than democratic policing processes (Human Rights Watch, 2023).

### **3.2 Systemic Barriers and Procedural Injustices**

The greatest challenges concern the application of criminal law rather than the actual wording of the statute. Many individuals in Bangladesh think that procedural justice is unfair, time-consuming, and inaccessible, particularly to the poor. According to recent judicial monitoring reports, criminal cases sometimes extend for years with little to no progress or resolution (ICJ, 2022). There are a large number of undertrial detainees in overcrowded jails, the majority of whom are detained for minor or nonviolent crimes. Pretrial imprisonment is prevalent.

According to an empirical report published in 2023, pretrial inmates account for more than 75% of Bangladesh's jail population. The disproportionate imposition of pretrial imprisonment on the trifling basis of "likelihood to abscond" violates international law's presumption of innocence and the right to liberty (UNHRC, 2023). The final deciding factors in bail granting are often socioeconomic status, political reasons, and the prosecutor's or judge's reading level. This creates systematic inequity in the judicial system.

Another significant challenge is the availability of low-cost, high-quality legal services. Despite improved coverage, the National Legal Aid Services Organisation (NLASO) faces public distrust, bureaucratic inefficiency, and a lack of financing. According to Amnesty International (2024), most rural detainees are ignorant of their legal assistance rights or lack the finances to go through the official procedures necessary to get it.

### **3.3 Violence, Policing, and the Impunity Culture**

Law enforcement agencies, particularly the police and the Rapid Action Battalion (RAB), have been involved in contentious acts that have impacted both local and global society. The bulk of recorded incidents of torture, enforced disappearances, extrajudicial killings, and prison deaths have targeted journalists, minority groups, and political opponents (Human Rights Watch, 2023). Bangladesh has joined the Convention Against Torture; however, the country's laws do not explicitly

prohibit or criminalise torture. Despite being a forward-thinking law in principle, the Torture and Custodial Death (Prevention) Act of 2013 is seldom enforced, and few officials are subject to it.

The UN Special Rapporteur on Torture has voiced major concerns about Bangladesh, citing systemic issues in how incidents of abuse are investigated and handled. There appears to be an ongoing absence of effective judicial action, as well as a concerning level of institutional acceptance of maltreatment in custody (UNHRC, 2023, p. 9). Politicisation, a lack of independent oversight, and hierarchical policing paradigms are at the root of this impunity. External oversight by courts, parliament, or human rights commissioners is sporadic and politically constrained, while police accountability procedures are internal and ineffective.

### **3.4 Judicial Inefficiency and Institutional Constraints**

The judiciary, particularly the lower courts, confronts extraordinary capacity constraints. Cases build up and stay pending for longer periods of time due to a long history of judge shortage, poor training in rights-based jurisprudence, and outdated court administration methods. As of 2023, there were over 3.8 million pending cases before the courts, with criminal cases accounting for more than half (Transparency International Bangladesh, 2023). This backlog has major consequences, not only for delayed justice, but also for public faith in the system.

Administrative intervention, party nominations, and strategic case management frequently undermine judicial independence, as required by the Constitution. Politically charged cases are still pushed or delayed owing to political demands, endangering the judiciary's independence. The lower judiciary is also often seen as corrupt, especially in bail and remand hearings (ICJ, 2022). The judiciary routinely discriminates on the basis of class and gender. The institution regards women, particularly rape victims, with suspicion, subjecting them to procedural hurdles and rigorous cross-examination. Poor offenders suffer harsher bail terms and sentences due to their inability to access or navigate the justice system.

### **3.5 Mechanisms for Informal and Civil Society Justice**

Despite these institutional limitations, Bangladesh has a thriving civil society made up of NGOs, legal aid groups, and social leaders who may play an important role in delivering justice, particularly through unofficial dispute resolution forums like shalish. These forums are immensely popular in rural Bangladesh due to their

accessibility, recognisability, and perceived fairness. However, such forums raise major issues regarding due process, gender fairness, and consistency of outcomes, especially for minorities and women (UNHRC, 2023).

There is growing understanding that variety of justice, when properly regulated and linked to rights, may be an additional instrument for decreasing the backlog in formal courts and expanding access to justice. Community mediation, restorative justice discussions, and travelling courts are becoming popular as answers to the access problem. To prevent abuse and ensure justice, such innovations must include clear normative criteria, institutional checks and balances, and adherence to constitutional principles.

This contextual analysis shows that Bangladesh's criminal justice system is not only outdated, but also prone to exclusion, inefficiency, and coercion. As a result, legal reform must be multifaceted and comprehensive. It would have to include the abolition of colonial legacies, the procedural reduction of injustice, institutional accountability, and the legitimisation of community-based activities within a rights-based framework. Importantly, this transformation cannot be implemented from the top down; it must be collaborative, involving a wide range of stakeholders, and based on both legislation and ground realities.

## **4. International and Comparative Perspectives**

### **4.1 Global Restorative Justice Innovations**

Restorative justice is a viable alternative to retributive justice that focusses on repairing harm, encouraging discourse, and supporting criminals in their reintegration into society (Zehr, 1990; Clamp & Doak, 2012). Its ideals are increasingly being accepted by post-conflict nations and those dealing with long-term structural imbalances.

The South African Truth and Reconciliation Commission (TRC) represents a significant step forward for restorative justice concepts. The TRC, established under the Promotion of National Unity and Reconciliation Act of 1995, held public hearings in which victims and perpetrators alike could provide evidence in exchange for conditional amnesty based on full disclosure (Gade, 2013). According to national survey evidence, participation in TRC activities and exposure to its hearings was associated with improved public attitudes towards reconciliation and forgiveness; however, these gains were not evenly distributed across different demographic groups, and

testifying individuals experienced increased psychological distress at times (Stein et al., 2008). Critics argue that the TRC failed to fully address apartheid's more pervasive structural injustices, achieve compensation, or drive institutional transformation (Allais, 2011; Reddit debate, "Was South Africa's TRC a failure?", n.d.; The New Yorker, 1996).

The Circles of Support and Accountability (CoSA) paradigm falls under the category of community reintegration and is a unique restorative strategy. It began in Canada in the mid-1990s and involves specially trained volunteers that provide support to at-risk ex-offenders, raise accountability awareness, and contribute to the reintegration process (Cheadle, 2008; Nellis, 2009). Research-based evaluations have revealed considerable decreases in recidivism rates: sexual recidivism has decreased by around 70%, violent recidivism by 57%, and general recidivism by 35% when compared to matched control groups (Wilson, Cortoni, and McWhinnie, 2009). These instances demonstrate restorative justice in action at both the individual and systemic levels, allowing for societal repair and offenders' readjustment with political will, institutional backing, and culture-sensitive design (Clamp and Doak, 2012).

## 4.2 Legal Pluralism and Hybrid Judicial Frameworks

Legal pluralism, or the acknowledgement of several coexisting legal systems within a jurisdiction, provides a road to justice that values cultural variety while protecting rights.

The Kenyan Constitution of 2010 recognises Kadhi Courts as subordinate courts with authority confined to Islamic personal law for consenting Muslim parties (Article 170). According to Gracia Malowa (2022), Kadhi Courts embody legal and empirical plurality, ensuring that religious minority have access to culturally relevant adjudication. Despite worries about uniformity and apparent favouritism raised during constitutional talks, the courts are nevertheless a culturally and legally significant institution (Malowa, 2022; ResearchGate article on Kadhis' Courts, 2016).

In Colombia, the establishment of the Special Jurisdiction for Peace (JEP) following the peace deal in 2016 is a critical hybrid justice paradigm in the transitional justice context. It mixes restorative and retributive tactics by providing varied penalties for individuals who recognise fault and seek community restitution. The "Semillitas de Vida" forest restoration initiative, which began in April 2024 in Sumapaz, employed 48 ex-military people in environmental restoration efforts, representing both a practical and symbolic step towards societal rehabilitation (Le

Monde, 2024). Nonetheless, the JEP has faced criticism for its poor performance—having operated for four years without winning convictions in eleven significant cases—as well as ongoing political antagonism to ex-combatants (Le Monde, 2024). Furthermore, JEP’s efforts to incorporate indigenous epistemologies of justice provide light on the benefits and limitations of pluralism in transitional circumstances. Despite efforts to promote legitimacy via cultural inclusiveness, resource limits and poor engagement by indigenous groups hinder integration (Gómez-Isa, 2017; Ospina et al., 2019).

These models indicate that hybrid systems that combine formal legal systems with grassroots methods are more likely to improve accessibility, legitimacy, and cultural relevance. However, achieving systemic coherence and human rights protection necessitates unique institutional arrangements, resource allocation, and the implementation of proactive inclusive processes.

### **4.3 Rights-Based and Internationally Accepted Standards-Based Reforms**

Treaties on international human rights provide normative principles that promote criminal justice reform. Bangladesh, as a signatory to both the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), is responsible for ensuring the right to a fair trial, eliminating incidents of torture, and protecting human dignity. This commitment is also strengthened by participation in Sustainable Development Goal 16, which asks for equitable access to justice, inclusive institutions, and respect for the rule of law (Penal Reform International, n.d.; UN SDG 16 Overview, n.d.).

The UNDP-led Global Programme on Justice and the Rule of Law fosters institutional transformation by providing training for legal aid practitioners, prosecutors, and law enforcement agencies, resulting in more responsive and rights-compliant institutions (UN DESA, 2025). Similarly, the IDLO emphasises that fair justice principles, judicial independence, and anti-discrimination measures are crucial for achieving SDG 16.3, particularly for marginalised populations like as children and women (IDLO, 2019).

The UNODC’s Handbook on Restorative Justice Programs (Second Edition, 2020) and Restorative Justice Pocketbook (2025) outline specific guiding principles, such as the need for voluntary participation, victim protection, and community involvement, and provide actionable suggestions for implementing restorative justice principles within formal systems (UNODC, 2020; UNODC Indonesia, 2025).

Together, these global structures-which include legal, developmental, and policy dimensions-provide the norms and instruments required to implement reforms that are transparent, rights-respecting, and potentially revolutionary.

#### **4.4 Lessons from Regional Neighbours**

Within the South Asian experience, India and Pakistan's histories provide useful contrasts for Bangladesh's case.

India has developed expedited court procedures and alternative dispute resolution (ADR) strategies to reduce the backlog of pending cases. Although these revisions have boosted procedural expediency, there are still concerns that expedited resolutions would weaken procedural fairness and comprehensive rights protection (PRI, n.d).

Restorative justice pilot programs in Pakistan, such as Muslahathi Committees, grew out of UNDP-supported efforts in Khyber Pakhtunkhwa and spread to other provinces (Muslahathi hybrid model) (Turn0search3). Between 2006 and 2009, these pilots resolved over 600 cases using gender-responsive conflict mediation and local participation. Despite strong initial reviews, problems such as a lack of persistent institutional support, low female representation, and intermittent bureaucratic follow-through restricted their long-term efficacy (Law & Society Review, 2024). These experiences show that civil society involvement, judicial training, and long-term institutional support are essential for implementing restorative justice changes.

### **5. Key Challenges and Gaps in the Existing System**

The criminal justice system in Bangladesh confronts significant obstacles that impede the preservation of fundamental rights and the delivery of fair trial processes. Torture in detention, wrongful arrests, and the institutional impunity culture all contribute to a climate of intimidation and injustice in society. Since the previous decade, human rights organisations have meticulously recorded forced disappearances and fatalities in detention. Odhikar, one of the leading human rights organisations in Bangladesh, identified around 677 disappearances and over 1,000 fatalities in detention between 2009 and 2023, demonstrating a clear pattern of human rights abuses committed by police and other security forces that appear to operate with impunity

(Odhikar, 2023). The case of Michael Chakma, an ethnic minority human rights activist whose abduction and five-year clandestine incarceration occurred without communication with his family or counsel, exemplifies the gravity and secrecy of such breaches (Reuters, 2024).

Thorough studies have uncovered instances of disproportionate action by law enforcement against peaceful protestors, resulting in deaths and serious injuries (The Guardian, 2025). Extrajudicial executions and torture, which are frequently portrayed as vital for preserving public order or defending the country, have been strongly condemned by international human rights organisations (Amnesty International, 2024). Security institutions typically have a corruption culture that enforces compliance with legal immunity through procedural barriers, such as the regulation requiring government permission to prosecute security forces, creating nearly insurmountable barriers to justice for victims (Transparency International Bangladesh, 2023). A recent government committee inquiry revealed that the legal process is intrinsically biased to suppress political dissent, with coerced confessions and denial of bail serving as weapons for criminalising opposing views (TBS News, 2025).

Access to justice is made more difficult by major inequalities in legal representation. Undertrial inmates make up a sizable fraction of the jail population, and they sometimes suffer lengthy incarceration without charge or prompt access to court processes. According to recent data, almost 80% of the total prisoner population is comprised of undertrial inmates, many of whom are imprisoned due to obsolete regulations like as the Special Powers Act of 1974 (Dhaka Tribune, 2025). The stagnation of unsolved cases inside the Bangladeshi legal machinery exacerbates the situation, with over 4 million outstanding cases across several courts, many of which take several years to process (Dhaka Tribune, 2025). This lengthy legal procedure has a disproportionate impact on marginalised people, who are frequently unable to afford good legal assistance. According to empirical data, 62% of accused defendants' families are forced to pay bribes to expedite court procedures or be granted bail, with legal fees often putting these families in poverty (Rahman & Islam, 2024). Even though the National Legal Aid Services Organisation is mandated to provide legal help to disadvantaged defendants, its performance is severely limited due to budgetary and administrative restrictions (Legal Aid Services, 2023).

The underlying shortcomings in the police, prosecutorial, and judicial apparatus continue to impede the impartial administration of justice. Law enforcement agencies are frequently at the centre of media attention due to allegations of political bias and corruption, working as vehicles of official repression rather than neutral adjudicators of legal codes (Human Rights Watch, 2024). Law enforcement's inves-

tigative units suffer from a lack of adequate training, inadequately equipped forensic teams, and limited technical equipment, resulting in subpar or incomplete inquiry outcomes (New Age, 2025). Various stakeholders have asked for the formation of an independent criminal investigative agency and a government legal service, seeing these reforms as critical to improving investigation and prosecution efficiency (Daily Star, 2025).

Political meddling and partisanship have a significant impact on Bangladeshi prosecutors, resulting in appointments that frequently reflect political allegiance rather than professional skill or knowledge. As a result, there is a stark discrepancy and a lack of professionalism among prosecutors, with a large proportion of them being inadequately qualified or without specialised training (Lawyers & Jurists, 2024). The Chief Justice of Bangladesh has particularly said that incompetent prosecutions, along with insufficient investigative efforts, result in low conviction rates, undermining public trust in the criminal justice system (New Age, 2025).

Political influence and corruption continue to undermine judicial independence. Courts are frequently subject to executive interference, particularly because appointment and discipline actions are generally opaque (Transparency International Bangladesh, 2023). Corruption in the judiciary is especially distressing since judges and court officials are frequently underpaid, making them more vulnerable to bribes (Transparency International Bangladesh, 2023). Furthermore, there is a legal culture that prioritises allegiance to political masters over impartial justice, undermining the rule of law (Asian Legal Resource Centre, 2024). Though important verdicts, like as the Masdar Hossain case, highlight the need of judicial autonomy, progress on reforms remains sluggish and uneven, with strong institutional resistance (The Financial Express, 2024).

In Bangladesh, both institutional and legislative resistance impedes the implementation of criminal justice reform and upgrades. Efforts to digitise legal processes, increase transparency, and enhance supervisory regimes frequently fail owing to opposition from vested bureaucratic interest groups and stakeholders who have profited from the present framework. Even though the Constitutional Reform Commission has made progress in progressive reforms, particularly in terms of improved protection from extrajudicial killings, enforced disappearances, and arbitrary arrests, those advances have been glacially slow and patchy. Furthermore, political upheavals and frequent changes in government composition continue to stymie reforms, as shifting agendas and power realignment create barriers to institutional commitment (International Crisis Group, 2025).

The underlying challenges affecting Bangladesh's criminal justice system emerge

from a complex interplay of chronic human rights breaches, structural weaknesses, and political obstacles. To address the concerns of arbitrary detention and custodial mistreatment, strong enforcement and accountability procedures must be established in addition to legal changes. To improve access to justice, legal aid resources must be significantly increased and court backlogs eliminated, while police, prosecution, and judiciary reforms should focus on professionalisation, depoliticization, and capacity building. To effectively overcome institutional opposition, continuous political will, interagency cooperation, and the establishment of independent monitoring organisations capable of overseeing and driving critical reforms are required. Without these comprehensive and integrated reforms, the criminal justice system would remain vulnerable to abuse and fall short of its constitutional mission to uphold justice and human dignity.

## **6. Towards a Progressive Criminal Justice Model**

The above study has demonstrated that Bangladesh's criminal justice system is heavily influenced by previous colonial jurisprudential precedents, procedural flaws, human rights breaches, and a social culture of impunity. These deeply rooted institutional challenges are serious, but not insurmountable or unavoidable. Using theoretical models, empirical facts, and examples of best international practice, this chapter presents a comprehensive reform plan for Bangladesh's criminal justice system to be progressive, rights-based, and socially just. The proposals mentioned below are organised into five major pillars: legislative changes and statutory revisions, institutional reengineering, the establishment of restorative justice procedures, improving legal rights and access to justice, and capacity building in conjunction with monitoring measures.

### **6.1 Legislative and Statutory Reforms**

The Penal Code of 1860, the Evidence Act of 1872, and the Criminal Procedure Code of 1898-Bangladesh's three primary criminal laws- all exhibit traits taken from colonial legal systems. Due to their departure from modern criminal justice and human rights norms, these statutes have long been criticised (International Commission of Jurists [ICJ], 2022). A representative and participatory legislative procedure is required to update these codes, taking into account both their substance and breadth.

The Penal Code must be changed to transition from a punishment-centric

paradigm to one that emphasises concepts such as proportionality, minimising societal harm, and reform (ICJ, 2022). Such change is consistent with global trends in criminal justice reform, which emphasise restorative and community-based solutions above punishment (UNODC, 2021). Changes to the Code of Criminal Procedure (CrPC) must be aimed at improving procedural protection for both accused individuals and complainants/victims of crime. One key area for reform is strengthening arrest provisions to prevent arbitrary arrests, amending bail statutes to reduce pre-trial detention, and implementing more definitive guidelines for proceedings in absentia and custodial questioning (United Nations Human Rights Council [UNHRC], 2023). Furthermore, to make judicial procedures fairer and more accurate, the Evidence Act must be revised to ban compelled confessions and to integrate contemporary evidence like as digital and forensic evidence (UNODC, 2021).

Furthermore, formal legislation to assist restorative justice initiatives, such as victim-offender mediation, community conferencing, and reparative programs, remains a top objective, particularly for juvenile delinquency and less serious offences (Council of Europe, 2022). Legislative efforts must be taken to guarantee that the procedure is voluntary and that juvenile and vulnerable groups are protected. As a result, these legislative initiatives would ensure stronger integration of official legal institutions and community dispute resolution processes, as well as offenders' reintegration rather than isolation (Zehr, 2021).

The implementation of the aforementioned legal reforms necessitates the participation of diverse stakeholders through open and inclusive conversation. Legal professionals, civil society leaders, constituents from relevant areas, and members of marginalised groups must all be considered stakeholders. This inclusive approach will improve the credibility and execution of the suggested improvements (Human Rights Watch, 2023).

## **6.2 Institutional Restructuring**

Legal reforms cannot succeed without fundamental changes in the institutions that administer justice. Bangladesh's justice systems, including the police, prosecution, and court, need to be restructured to increase autonomy, efficacy, and public accountability. One important aspect of reform is demilitarising the police and reorganising paramilitary groups to provide a clear distinction between police responsibilities and military activities (Human Rights Watch, 2023). The militarised technique now employed by police departments has been linked to excessive force, abuses during custody, and a loss of public trust (Amnesty International,

2024). The establishment of independent police oversight organisations, including a complaints panel with an investigative mandate and responsibility to aid victims, is critical to holding officers who have violated human rights responsible (Transparency International Bangladesh, 2023).

Reforms to the appointment of judges must prioritise credentials, diversity, and judicial autonomy. A judicial service commission's recruiting, promotion, and discipline processes must be open and free of political intervention. Adopting these reforms will result in a judiciary capable of resisting governmental interference and corruption (Asian Legal Resource Centre, 2024). Prosecutors' autonomy is extremely important. Currently, the Attorney General's Office has a close relationship with political forces, which jeopardises the impartiality of prosecutions, particularly in contentious instances involving human rights violations or political opposition. Institutional measures and enhanced protections for prosecutors are required to maintain professional integrity and impartiality.

Successful institutional reforms require not just parliamentary support but also long-term political commitment, as well as the formation of internal cultures that promote openness, ethical behaviour, and human rights protection (International Crisis Group, 2025).

### **6.3 Development of Restorative Justice Models**

The shift from punitive to restorative solutions is critical, particularly for youth, repeat offenders, and perpetrators of small or nonviolent offences. The restorative justice framework prioritises discourse, repair, and reconciliation efforts over simple retributive measures; this approach tackles specific disputes while also encouraging societal cohesiveness (Zehr, 2021).

Pilot programs should be established in various regions to create institutions dedicated to youth justice, gender violence, and local disputes. These institutions would function under court oversight while maintaining connections with civil society organisations, striking a balance between legal control and social involvement (Council of Europe, 2022). It is important to institutionalise the practice of community-based victim-offender mediation and conferences, with additional specific protections to ensure voluntariness, informed consent, and procedural fairness, and with these hearings managed by qualified experts (UNODC, 2021).

Restorative justice values must be instilled in judge, prosecutor, police, and probation officer training to move institutional thinking away from retributive paradigms and towards rehabilitation and reconciliation (Amnesty International, 2024).

The effective adoption of restorative justice techniques requires a transformation in institutional culture. Furthermore, informal traditional justice systems, such as *shalish*, continue to wield significant power in rural Bangladesh and must be recognised and regulated by official legal institutions. This rule shall include safeguards against discrimination and abuse, in accordance with constitutional requirements and international human rights standards (Transparency International Bangladesh, 2023). Interplay between official and informal judicial systems can increase accessibility and legitimacy while protecting disadvantaged populations.

## 6.4 Legal Rights and Access to Justice

Access to justice is limited for the marginalised, including the poor, women, religious minorities, and individuals living in rural parts of Bangladesh. Legal empowerment is more than just providing services; it also necessitates the eradication of structural, linguistic, and socioeconomic hurdles that prevent effective involvement in the court process.

Promoting decentralisation and providing legal assistance are crucial to achieving this aim. The United Nations Development Programme (UNDP) emphasises the importance of increasing funding for the National Legal Aid Services Organisation (NLASO), developing mobile legal clinics, and training community paralegals to assist rural communities (UNDP, 2022). Legal assistance must be provided to defendants experiencing economic difficulty at all levels of criminal proceedings, from pre-trial detention to the appeals stage, and the state must accept responsibility for assuring legal representation.

These challenges need the development and dissemination of multilingual legal teaching materials and information, particularly in minority and indigenous languages, in order to enhance awareness of rights and procedural protections (Human Rights Watch, 2024). Furthermore, using technical improvements such as virtual hearings, online legal assistance, and case management might improve operational performance while also expanding outreach initiatives, particularly for marginalised communities (UNODC, 2021). Democratising legal knowledge and access is a long-term process that involves collaborative efforts by government institutions, civil society, and international players.

## 6.5 Establishment of Capacity and Oversight Framework

To guarantee that institutional changes are meaningful and long-lasting, reform must be implemented effectively through continual capacity training, empirical research, and robust accountability structures. Adequate resources, technical knowledge, and a strong ethical commitment are required to protect human rights in the legal system. One of the recommendations is to establish a National Criminal Justice Reform Commission composed of representatives from the court, civil society, education, and government agencies. It would be in charge of mapping reform implementation, evaluating progress, and reporting to Parliament to guarantee accountability and transparency (Bangladesh Law Commission, 2023). Furthermore, a Justice Innovation Fund could be established to provide financial support for experimental projects, evidence-based research, and community-centred civil society programs aimed at improving the justice system across Bangladesh (Transparency International Bangladesh, 2023).

All stakeholders in the criminal justice system must receive regular human rights training that is tailored to the Bangladeshi context, encompassing topics such as the right to a fair trial, gender sensitivity, and cross-cultural competency. Such training raises professional standards and fosters an environment that values human dignity (UNODC, 2021).

The Human Rights Commission of Bangladesh Human Rights Commission should be granted the authority to conduct detailed investigations into custodial abuses, the state of detention centres, and police abuse (Amnesty International, 2024). Perhaps most importantly, annual independent reviews of criminal justice statistics-ranging from pretrial detention to prison conditions, bail usage, and investigations into in-custody deaths-should be conducted to increase transparency and institutional accountability (Transparency International Bangladesh, 2023). Without these instruments for supervision and capacity building, legislative and institutional changes risk becoming cosmetic and failing to address entrenched cultures of impunity and neglect.

## 7. Conclusion

### 7.1 Synopsis

This paper analyses the structural inadequacies of Bangladesh's criminal justice system from a comparative, multidisciplinary, and rights-based viewpoint. Systemic human rights violations, institutional sclerosis, and procedural injustice were identified as significant characteristics of the country's punitive judicial system, which began with the selling of colonial law. The conceptual and methodological knowledge of critical criminology, legal pluralism, and restorative justice provides a normative platform for reimagining justice in a more democratic, participatory, and compassionate way.

According to contextual study, Bangladesh's judicial system suffers from over-centralisation, politicisation, a lack of due process, and a punitive culture that traumatises underprivileged populations. Global experiences, like those in South Africa, Kenya, Colombia, and the European Union, shown how comprehensive reforms, hybrid legal frameworks, and restorative justice might improve access to justice and accountability in similar situations. These findings laid the groundwork for a multidimensional reform plan that includes capacity-building initiatives, institutional change, restorative practice integration, access to justice programs, and legislative modification.

### 7.2 Contribution to Theory and Knowledge

By adopting Bangladesh as a case study for the Global South, this work extends to the growing corpus of scholarship on postcolonial legal reform and transformative justice. The article adopts a philosophically informed, justice-focused perspective that prioritises human rights, dignity, and social inclusion, rather than considering criminal justice reform as a technical or administrative issue. It rejects the idea that criminal law must always be founded on retributive principles and believes that restorative, plural, and participatory approaches to justice may be more successful. Furthermore, this study contributes to the developing field of comparative criminal justice by demonstrating how contextualised information from other jurisdictions may inform local reform.

The study highlights the need of incorporating restorative justice and legal pluralism into formal legal systems while upholding equality before the law and due process. The article thus responds to calls for the decolonisation of legal instituti-

ons, notably in historically colonised nations where imperial logics of exclusion and control still pervade their legal systems (UNHRC, 2023).

### **7.3 Implications for Practice and Policy**

This research has important and serious policy implications for decision-makers. The first is that the Bangladeshi government must implement a thorough legislative reform program, starting with a dramatic overhaul of the British Raj's obsolete penal laws. Any new legislation must comply to human rights principles, sentence proportionality, and restorative practice approaches. Second, institutional reform of the police and judiciary is required to ensure their independence, responsibility, and professionalism. This entails establishing civilian monitoring groups, expanding internal disciplinary processes, and protecting attorneys against political retaliation.

Third, everyone, including women, rural inhabitants, and socioeconomically challenged populations, deserves access to justice. Important measures towards accomplishing this aim include expanding legal help, utilising technology in the administration of justice, and acknowledging the legality of regulated community-based conflict settlement mechanisms. Fourth, restorative justice should be systematically integrated into the legal system, beginning with small offences and young offenders and gradually expanding depending on public trust and performance. In addition to lowering jail populations and backlogs, this will promote reintegration and reconciliation-qualities that are almost non-existent in the existing system.

Lastly, successful transformation should occur after the adoption of monitoring and evaluation mechanisms guided by neutral bodies and backed by empirical facts. Without them, it is realistic to expect that even the most ambitious legal reforms will fail due to poor implementation or institutional resistance.

### **7.4 Prospects of Future Research**

There is still an urgent need for more empirically grounded, cross-disciplinary study on Bangladesh's criminal justice system. Future research should focus on the following areas:

- The real-life experiences of inmates, survivors, and community stakeholders.
- How digital platforms and legal technology help people access to justice;
- How gender, class, and ethnicity connect with justice results;
- The long-term effects of restorative justice pilots in South Asia.

Researchers should look at how far international human rights standards may be applied locally without reproducing legal imperialism, especially in situations where informal and customary legal systems remain the main sources of power.

## **7.5 A Call for Democratic and Rights-Based Transformation Focused**

At its core, a society's criminal justice system reflects its institutional and moral beliefs. Bangladesh's existing system prioritises governmental power over individual rights, punishment over rehabilitation, and legal formality over substantive justice. Both international commitments and constitutional objectives are incompatible with the existing state of affairs, which is unsustainable.

Evolutionary justice requires a democratic, pluralistic, and participative worldview. The everyday lives of those most affected by the legal system, such as communities, victims, and accused people, must be given priority, and channels for their views to influence organisations, laws, and policies must be established.

Legal reform is not a technical undertaking; rather, it is a political one founded on the desire for human dignity and the common good. Bangladesh has to decide now. It's time to abandon the hostile legal culture and the authoritarian traditions in favour of a fresh approach founded on accountability, empathy, and equity for all.

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## Acknowledgement

None

## Note on conflict of interest

We hereby declare that there is no conflict of interest while preparing this research. We have no financial or personal relationship that may influence the interpretation or publication of the results which are obtained. We affirm that we have respected ethical standards and upheld scientific integrity at all times, in line with the standards set by the academic world and those prescribed by this journal.