
Determining the Efficacy of Criminal Justice System with Reference to Conviction Rate in Bangladesh

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Abstract: Criminal justice system is very crucial for all countries all over the world. The main aim of this paper is to determine the criminal justice system and also to deliver justice for all, by convicting and punishing the guilty and helping them to stop offending, while protecting the innocent. This paper also states that the justice system is to determine the efficacy judicial system and conviction rate in Bangladesh and other countries which ensures all courts and tribunal. This study is an attempt to portray with special references of the comprehensive and holistic analysis of criminal justice system of Bangladesh. The paper depicts the history and evolution of the judicial system in Bangladesh from ancient period to present day. The major findings of this paper are to prevent crime and create peaceful, law-abiding societies.

Keywords: Justice, criminal, conviction, Bangladesh, courts.

INTRODUCTION

Our modern ideas of justice and the ways in which we deal with crime and criminals have evolved significantly over thousands of years. Once a matter of vengeance and family blood feuds, crime has come to be viewed as a societal problem, thus requiring a societal or governmental solution. The field of criminal justice emerged in the [United States](#) in the second half of the 20th century. Criminal justice, a generic term for the procedure by which criminal conduct is investigated, arrests made, evidence gathered, charges brought, defenses raised, trials conducted, sentences rendered, and punishment carried out. Criminal justice has been defined as the maintenance of rights, suppression of wrong and thus upholding justice within a political community by means of physical force of the state. Criminal justice, interdisciplinary academic study of the [police](#), criminal [courts](#), correctional institutions (e.g. [prisons](#)), and [juvenile justice](#) agencies, as well as of the agents who operate within these institutions. Criminal [justice](#) is distinct from [criminal law](#), which defines the specific behaviors' that are prohibited by and punishable under [law](#), and from [criminology](#), which is the scientific study of the no legal aspects of [crime](#) and [delinquency](#), including their causes, correction, and prevention.

MATERIALS AND METHODS:

The methodology in this paper it prefers to emphasize both on the theoretical and practical aspects of the research subject. Theory needs to substantiate the ground work of recommendations necessary to amend, adopt or formulate further laws, regulations, guidelines or notifications with existing those in practice. Here it is followed analytical and comparative method developing this research work. Here it is taken interview of some high officials who are directly and indirectly involve with the criminal justice system having particular knowledge

and command in this arena. This research work takes the extract of the origin of criminal justice system and its development in the present world especially in Bangladesh. This method will establish an essential basis for the rest of my work because it provides me with an overview of the rationale of establishing my recommendations arising out of this study. It is also mentioned here that the relevant laws of other countries including USA, UK, Canada, Australia, China, India, Pakistan etc. It had conducted a survey among the general peoples, criminals, prisoners, as well as high officials who are directly and indirectly involve with the criminal justice system. Secondary sources are reference books, research journals, websites and other relevant publications.

Background procedure of criminal justice system:

Criminal justice based on the theory of criminal liability is concerned with the punishment of the crime. In a criminal proceeding the complainant or the prosecutor on behalf of the complainant makes an allegation that the accused has committed a wrong on the complainant. Criminal Justice System consists of the process through which the state responds to behavior that it deems unacceptable. Criminal justice is delivered through a series of stages: FIR; framing charge; prosecution; trial; sentence; appeal; punishment. These processes and the agencies which carry them out are referred to collectively as the criminal justice system. In Bangladesh the CJS comprises four agencies: the police, the criminal courts, the prosecution, the prison. The police are charged with detecting crime and maintaining law and order. The criminal courts are mandated to try offences in law, establish innocence or guilt and, in the latter case, pass a sentence of appropriate punishment. The role of the Prosecution is to decide whether there is sufficient evidence to bring a suspect to trial in a court of law and whether or not it is in the public interest to do so. The prison is charged with protecting the public by holding those committed in a safe environment and, additionally, with helping to reduce crime by providing constructive regimes which address offending behavior.

Origin and Development of criminal justice system:

The first criminal justice system was created by the British at the time of the revolution of America. After a huge historical discussion, it is clear that criminal justice system is an important thing for the citizen of a country. The criminal justice system in Bangladesh has known history of over thousands of year. The present justice system of Bangladesh has been evolved as a result of gradual process during the different period of Indian history. Legal history of Bangladesh can be divided into four important periods. These are- Hindu period, Muslim period, British period and after independence of Bangladesh. During ancient times, the justice system was connected with religion and norms. The king was the supreme head of the branches. Hindu period extended for nearly 1500 years. The various sources of law replied that time they were follow Srutis, Smritis, Puranas, Dharmashastras etc. Muslim period started with first major invasion by Muslims in 1100 A.D after Hindu period. The Muslim emperor followed the laws of the Holy Quran, Sunnah, Ijma and Qias. That time head of highest court was Sultan. British period begins with the consolidation of the British power in the middle of the eighteenth century and last for nearly two hundred years. After independence of Bangladesh in 1971 the Acting president promulgated the Laws Constitution Enforcement order, 1971 by which all laws that were in force in Bangladesh on 25th March, 1971 continued to be so in force. At present time, Bangladesh have about 740 Acts, 507 Ordinance and some Regulations in

Bangladesh.

Criminal justice system in various countries:

The United States 'criminal justice system' is designed to enforce laws, ensure public safety and deliver justice to those who have committed the crime. In the United States, the criminal justice system has 4 components. These are – police, prosecution, courts and corrections. The police play a very important role in this component. Police are responsible for entering most people into the system. The second most important component is prosecution who brings the charges against the accused or the defendant. The third major element of criminal justice systems are courts which are presided over by judges. The last component is corrections. It is the most important role in the criminal justice system in the United States.

The criminal justice system of the United Kingdom is the collective body responsible for administering justice in the UK. In the UK, criminal justice systems are 5. These are Police, the Crown Prosecution Service, the Court, the National Offender Management Service and the Youth Justice System.

In sum, the criminal justice system in India is a legacy of the British system. It has four subsystems. Those being the Legislature (parliament), Enforcement (police), Adjudication (court), and corrections (prisons, community facilities).

Criminal justice system in Pakistan also comprises of three basic institutions i.e. police, prosecution and judiciary. Before, 2007 there were only two institutes in the criminal justice system i.e. police and judiciary. There was no concept of an independent prosecution Department in Pakistan.

In China, criminal justice systems are the public security agencies, the people's Procuratorates, the people's courts, and the ministries of education, justice and public security.

Criminal justice system in Bangladesh:

Our criminal justice system is often characterized as oppressive, unjust, corrupt and ineffective. The ordinary people lack confidence in the criminal justice system's ability to deliver and such confidence is the lowest among the poor who need it the most. Many incidents of erroneous conviction, unjust acquittal, inordinate delay, double and over criminalization, custodial torture and death, costly process, widespread corruption -all contribute to such a negative public perception and remain stumbling blocks to the realization of the goals of the criminal justice system. Our criminal justice system is in a constant state of flux. The last few years have seen the enactment of various criminal laws bringing changes to the structure and orientation of the criminal justice system. But the acceptability of these laws has never been assessed and scrutinized through public opinion and public participation in the law-making process. The pace of change in the criminal justice system initiated by the flurry of legislation should be commensurate with the predictability and stability of legal order. These criminal laws and procedures have not developed in a coherent and consistent manner. While it should be admitted that a legal order should evolve over time in order to take into account the needs of a changing society, yet a reasonable degree of predictability of legal order is also required and essential for a mature legal system. Such legal predictability and certainty can nowhere be more important than in the area of the criminal justice system.

In Bangladesh, the criminal justice system consists of three main parts of government for administering the criminal justice. These are- legislative, executive, and judicial. And each of those branches has its individual role in the criminal justice system. Like that the legislature makes the law, the judiciary enforces the law and the executive administers. It investigates, arrests

made, evidence gather, charge, brought, defenses rendered, and punishment carried out.

Conviction rate in various countries:

In India, the national conviction rate in for offences of the Indian Penal Code is around 46%. Throughout 2016, the national conviction rate for Indian Penal Code crimes was 46.8% and 596,078 were convicted and 678,270 were acquitted/discharged. Moreover, 1,060,724 were convicted of SLL crimes and 226,546 were acquitted or discharged of them, making the conviction rate for SLL crimes 82.4%, and giving an overall conviction rate, in India, of 64.7%, for 2016.

In china, the justice system has a conviction rate of 99.9% in 2014. Out of 1.2 million tried, only 1,039 were found not guilty. And an acquittal rate of around 0.08%. China have set a “zero acquittal policy”, resulting in a negative performance evaluation for trails that and in acquittal. As a result, Chinese prosecutors tend to withdraw indictments at the pre-trial stage rather than risk acquittal.

The conviction rate in Israel is around 93%. Around 72% of trials end with a conviction on some charges and acquittal on others, while around 22% end with a conviction on all charges. These statistics do not include plea bargains and cases where the charges are withdrawn, which make up the vast majority of criminal cases.

In the United States federal court system, the conviction rate rose from approximately 75% to approximately 85% between 1972 and 1992. For 2012, the US Department of Justice reported a 93% conviction rate. In 2000, the conviction rate was also high in U.S. state courts. In 2018, the Bureau of Justice Statistics reported that among defendants charged with a felony, 68% were convicted (59% of a felony and the remainder of a misdemeanor) with felony conviction rates highest for defendants originally charged with motor vehicle theft (74%), driving-related offenses (73%), murder (70%), burglary (69%), and drug trafficking (67%); and lowest for defendants originally charged with assault (45%). There are frequent "guilty acceptance" plea deals in the United States. That said, the ostensible "conviction rate" may not be accurate because the charges are dropped.

In England, the figures for 2017–2018 w ales show at Crown Court the conviction rate was 80.0% and at Magistrates Court the conviction rate was 84.8%. In Northern Ireland figures show at Crown Court the conviction rate for 2017-2018 was 87.2% and at Magistrates Court it was 79.0%.

In Japan, the conviction rate is 99.3%. By only stating this high conviction rate it is often misunderstood as too high. In Japan, unlike in some other democracies, arrests require permission of judges except for cases such as arresting someone while committing a crime. Only significant cases with sufficient evidence are subject to indictment, since becoming a party to a criminal trial imposes a burden on a suspect. Japan’s indictment ratio is only “37%—99.3%” is the percentage of convictions divided by the number of indictments, not the criminals. As such, the conviction rate is high.

In Canada, 2017-2018 data provided by Statistics Canada indicate an overall rate of conviction of 62% (of those charged in adult court). This is much lower than one might infer from the 3.6% acquittal rate because 1/3rd of the cases are withdrawn (either directly or indirectly via a "Crown Stay") before they reach a verdict. According to the effective conviction rate falls from 62% to approximately 50% if one excludes guilty pleas and deals.

Conviction rate in Bangladesh:

According to the Oxford Dictionary of Law (2003), “conviction, in criminal proceedings, is any finding of guilty that an accused has committed an offence or carried out the act for which he was charged”. A court determines conviction (i.e. guilty of an offense) either by accepting a valid guilty plea from the individual or upon a verdict of guilty by a judge or jury through scrutinizing available evidences. Conviction rate is usually calculated in percentage. The simple formula for calculating conviction rate is:

In Bangladesh perspective, it is evident that in our courts of law very few criminal cases end with conviction in trial courts. The rate in conviction in Bangladesh is very low percentage. In Bangladesh, in an average conviction rate is not more than 15-20%. So in Bangladesh the main problem of criminal justice system is low conviction. That poor rate are faculty of police investigation, unskilled prosecution services, lack of human as well as logistical resources, corruption and political interference in the criminal justice system. That is the reason public distrust on criminal justice system in Bangladesh.

Conviction rate is one of important indicators for assessing in effectiveness of the criminal justice system. So increasing the conviction rate in Bangladesh entails a dynamic gamut of takes and these challenges must be taken head on. There are no shortcuts to fulfill this challenges but some valid or proper strategies can be improved the conviction rate. At the ends, the judiciary can't do this challenges along, all of agencies of criminal justice system need to help and the people in general must all support to state for effective criminal justice system in Bangladesh. The low rate of conviction in criminal cases, as mentioned in a New Age report published on Thursday, June 20, 2013, is, indeed, an encouragement for criminals, petty and hardened. According to lawyers and rights activists, speaking at a national seminar organized by the National Human Rights Commission in the capital Dhaka, quoted in the report, the rate of conviction meted out here is less than 10 per cent while it is 96 percent in the United Kingdom. What is more worrisome, in terms of murder cases, is that the conviction rate is even less than 6 percent in the country. This is the general picture though some exceptions to this are now seen after introducing Speedy Trial Tribunals. These special tribunals are maintaining a high conviction rate. But this rate is not beyond controversy and there are many allegations against it, among those the vital one is that judges have become desperate to award sentences to meet the legal deadline. Moreover, criminal cases proceeded by the Criminal Investigation Department (CID) have higher conviction rate is 35.64% (average, from 2002 – 2009). But CID disposed about 1.53% cases (average, from 2002 – 2009) out of all crimes officially recorded which are only serious and sensitive in nature. A lot of reasons can be attributed to the low conviction rate in Bangladesh. But the most important ones are weak police investigation which is hardly sufficient to lead to a conviction, inefficiency of public prosecutors i.e. state attorneys, lack of commitment to ensure justice on the part of the lawyers, the large scale corruption practiced in the lower courts and the last but not the least the attitude of the people.

Efficacy of criminal justice system in Bangladesh:

Bangladesh is a development country which because of its economic, political and geographical position is full crime but doesn't give justice properly. In Bangladesh, criminal justice system is only showing uniformed theoretically but practically it suffers much disability.

In the Constitution of Bangladesh under Article-116A give power of judicial officers to be independent in the exercise of their function. But in reality it was not. Criminal justice system in Bangladesh is not ensured yet after having all the body of enforcing and almost uniformed judicial system. There weakness or failure point of criminal justice systems are as follows:

1. Lack of faith
2. Poor judgment
3. Imbalance
4. Failure to seek justice
5. Disabilities of judicial system
6. Political interference
7. unskilled prosecution services

The criminal justice system is designed to deliver “justice for all”. This means protecting the innocent, convicting criminals and providing a fair justice process to help keep order across the country. So in Bangladesh we have to changes our weakness point and establishment a proper criminal justice system. The solutions are-

1. Create fair and effective policy practices.
2. Ensure fair trail and quality.
3. Encourage equitable sentencing.
4. Promote justice in pre-trial services.
5. Ensure in independency of judicial branches.

Importance of Criminal Justice System:

The criminal justice system is designed to deliver “justice for all.” This means protecting the innocent, convicting criminals, and providing a fair justice process to help keep order across the country. In other words, it keeps our citizens safe. Without the criminal justice system, and all those who work within it, there might be havoc, violence, theft, and danger all around. But because of criminal justice professionals – those in law enforcement, corrections, and courts – we can trust that we can travel home, to work, and/or out in public, safely and securely.

Purpose of administration of criminal justice:

The main purpose of the administration of criminal justice is to impose punishment for lawbreaking. Criminal proceedings, if successful, result is the punishment of the accused ranging from hanging to a fine or in binding over to keep peace or even a release with admonition. Inflicting punishment is necessary for deterrence, retribution, prevention and reformation. Low conviction rate hinders the accomplishment of these outcomes. No purpose of the criminal justice system can be achieved by allowing criminals go unpunished. Conviction rate represents the commitment of the criminal justice system to its purpose. With a conviction rate of 15-20% make the purposes of criminal justice system questionable. In Bangladesh, the criminal justice system appears merely to be maintained with a view to keeping the administrative structure other than establishing justice. Many legal experts’ feel that the criminal justice system has failed to control the growth and strength of gangs nationwide and has been unable to put gangs in prison and keep them there.

Conclusion:

It can be said that criminal justice system are capable of investing and adjudicating criminal offences effectively and impartially while ensuring that rights suspects and victims are protected. It is comprised of multiple interrelated pillars, law enforcement, services, the judiciary and correction. These pillars are fashioned to support the ideals of legal justice. But the reality is that there is no ensure pillars of criminal justice system. So if we ensure our systems or pillars by proper strategies then it can be improved and the main purpose of criminal justice systems are fulfill properly. When it is fully established it maintains public order and upholds personal freedoms.

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