

Towards Innovative Justice: Enabling the underprivileged populaces to have easier access to justice



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Justice is fundamental.

Equal access to justice is an inalienable human right. It is “an essential component of the system of protection and enforcement of human rights”. However, access to justice has different meanings. It may be defined narrowly, to signify an individual’s right to bring a claim to a court or tribunal and to have that court or tribunal decide the claim. It could also refer to the right to be given legal aid when the individual does not have the resources required to avail of legal remedies. In a broad sense, access to justice also includes, as a critical element, the individual’s right to have her claim decided according to [substantive standards of fairness and justice](#).

In international human rights instruments, access to justice as a term of art is not used. Nonetheless, the right of access to justice is clearly guaranteed. In Article 8, the 1948 Universal Declaration of Human Rights (UDHR) guarantees the right to an effective remedy before competent national tribunals for violations of human rights. It declares further that “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”.

The UDHR guarantees for the right to equal protection of the law, the right to be presumed innocent in criminal investigations,¹⁸ and the right to non-discrimination are also related to the right of access to justice.

The International Covenant on Civil and Political Rights (ICCPR) guarantees the same rights and uses similar language. In Article 2 (3) thereof, each State Party undertakes: (a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; and (c) to ensure that the competent authorities shall enforce such remedies when granted. In Article 14, paragraph 1, “all persons shall be equal before the courts and tribunals” and that “[i]n the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”

In one study, [International Commission of Jurists](#) adopted the following definition of access to justice:

“We conceive of access to justice with reference to human rights principles. We consider it to include the insurance that rights and their correlative legal protections are recognized and incorporated in law and the right to an effective, accessible and prompt legal remedy for the violation or abuse of rights. It entails the ability and empowerment to claim rights as legal entitlements, to seek accountability of those who transgress them and to turn to the law for viable protection and meaningful redress.”

Being adherent to the constitutionalism and the rule of law for ensuring the right to licit justice of the people within the realm of justice I have been working in the judiciary as a judge since 2010.

For last two consecutive years as a judge of the Criminal Court I have been adjudicating criminal cases and proceedings. In dealing out justice within a criminal administration of justice the time consuming, expensive and non-supportive aspects of procedure were the main challenges in ensuring people’s right to justice. For last couple of years as a part of my continuous initiative to solve these challenges and to implement reformative changes in administration of criminal justice the cost effective, supportive, speedy procedural strategies were adopted. The combination of those strategies for their result-oriented outcome in ensuring the right to justice to the optimum level can be labeled as ‘Innovative Justice Scheme’. Within my jurisdiction in the justice sector, I enforced this scheme of innovation through harmonious application of rule of legal justice and principles of natural justice. While adjudicating the criminal disputes I implement the principles of natural justice judiciously with application of common law based statutory laws to ensure the rule of law vis-à-vis people’s right to legal justice in Bangladesh.

This ‘innovative justice scheme’ necessarily involves few creative methods in all three strata (pre-trial investigations, trial and post-trial execution) of the criminal justice administration to provide expeditious dispensation of expected justice. That the said system ultimately caused a sharp decline in the unbearable expenses and undue delay involved in the litigation incurred by the litigant people as well as the Government of Bangladesh resulting in a productive economic environment where the saved expenses of the government and general people along with the precious time of the people were invested in the financial activities supplementary to economic growth. On top of that, speedy disposal of criminal disputes through this system fundamentally mitigated the long-standing enmity and adversarial attitude of the people of our country leading to the protection of human rights, endurance of human security and endorsing of democracy-based good governance.

The principal legal actors in the Administration of Justice viz. the Judges and Magistrates, the Court-staff, the lawyers, the public prosecutors, police personnel and concerned Government officials can be integrated for implementing the aforesaid scheme. The capacity of a judge to design an all-encompassing plan and take impromptu decision in emergency while performing, the ability to lead his judicial team with ultimate confidence, motivation and courage are the well-established and effective aspects of judicial leadership skills. As a matter of fact, demonstration of determination in solving critical problems is the notion of judicial leadership practice which I effectively adopt in unlocking routine problem solving and materializing plans for implementing an Innovative Justice Scheme in Bangladesh.

The way I have planned for 'Innovative Justice Scheme' within the framework of Criminal Justice System of Bangladesh will certainly be competent enough to carry out a comprehensive, cost-effective, pro-people and expeditious scheme of criminal justice administration in Bangladesh. I am optimistic that successful implementation of this scheme will substantially contribute to the Sustainable Development and Good Governance for my country by uplifting the rule of law, enabling people to save litigation-consumed time to participate in economic activities, strengthening democratic institutions in a comparatively placid society with controlled law and order situation.

To be specific the 'Innovative Justice Scheme' includes but not limited to the following methods-

- Court-annexed Legal Aid to ensure access to justice for the marginalized litigant people
- Applying legal mechanism to restrain the admission of false, frivolous or malicious allegations in cognizance stage
- Information and Communication Technology based expeditious summoning and evidence recording
- Supervision for ensuring expeditious and neutral investigation and inquiry
- Encouraging the litigant parties to resolve the disputes amongst them through Alternative Dispute Resolution Mechanisms i.e. mediation, conciliation and arbitration to mitigate the time, expenses and animosity.
- Ensuring speedy trial of cases through one-sitting summary trial or trial without any needless adjournment depending on the gravity of the offences alleged.
- Mitigating the corruption, negligence, professional malpractice and other allied threats to justice through dire monitoring, motivational sessions and the court administration management.
- Reducing case-backlogs through case management strategies and priority based disposal of the long-pending cases.

Principally, I intend to use my knowledge, skills and connections gained from my service in judiciary to improve the Justice Administration System of Bangladesh. In executing my future action plan to improve the socio-economic condition of my countrymen I will work on those places where the economic sufferings of the justice seeking people are immense. Through strengthening the Court-Annexed Legal Aid Programme I will enable the underprivileged persons to have easier access to justice. In addition, with all my acquired knowledge and skill-based efforts I will introduce a non-stop trial procedure for the comparatively simple cases so that expenses involved in all tiers of judicial process meet a sharp decline enabling the people to save their hard-earned money and to invest their valuable time to productive financial works.

Nonetheless, if the justice administration process can be shaped in the aforesaid way the excessive budgetary allotment of the Bangladesh Government in the Administration of Justice throughout the country will also decrease to a greater extent contributing to further national economic growth. Hence, I am optimistic that with all the positive upshots of the 'Innovative Justice Scheme' which I am planning to implement in the justice sector with my knowledge, skills and connections achieved from my judicial service lessons and through large scale implementation of this effective strategies throughout the country the realization of MDGs, establishing meaningful democracy, ensuring development-oriented state governance, safeguarding national security and elevating Bangladesh from Least Developed Country(LDC) to a middle-income economy would be a possible reality.

