



The Evolving Criminal Justice System In Bangladesh: Protection Of Fundamental Rights Through Procedural Reforms

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Abstract: The Code of Criminal Procedure (2nd Amendment) Ordinance, 2025 is a great step in making Bangladesh's criminal justice system more modern and sophisticated. People have constantly condemned Bangladesh for its history of violating human rights during colonial times. The current transformation didn't happen all at once; it was the product of judicial activism, especially the Supreme Court's final rulings in several major cases over the years. The highest court of Bangladesh made a lot of critical decisions for building a criminal justice system free from torture, inhuman treatment and deprived of fundamental rights. The current interim government, which has a unique political mandate, recently passed enactment now make these decisions into legislation so that they can be enforced more widely. The new elements introduced to the CrPC, 1898 help the rules work better and improve the way they are utilized more in keeping with constitutional rights, which are the basic rights. In order for this modernization to function, we need to address the fundamental issues of politics and legitimacy and fix the deep-seated problems in our institutions, like a lack of resources and public trust.

Index Terms - Rule of Law, Procedural Reforms, Criminal Justice, Fundamental Rights, and Judicial Activism.

I. INTRODUCTION: A SIGNIFICANT HISTORICAL MILESTONE FOR BANGLADESH'S LEGAL REFORM

1.1. Problem Statement and Research

The British government enacted the Code of Criminal Procedure (CrPC) in 1898 which is the basis of Bangladesh's criminal justice system. But because it originates from colonial times and includes regulations that don't work, it has always been an issue for the system. This has led to several violations of human rights, such as random arrests, mistreatment in custody, and deaths. The criminal courts also have a lot of cases that need to be heard. This law code hasn't been able to produce a safe area where basic constitutional rights are protected, which is what a contemporary and democratic society needs. The interim government's recent modifications to the CrPC (First & Second Amendment) Ordinance, 2025, constitute a historic moment. This research shows that the new law is undoubtedly a great step forward in the effort to modernize the criminal justice system and make sure it follows the constitutional protections in Part III of the Constitution¹, especially Articles 31, 32, 33, and 35. We need to look at the primary forces that changed this reform to see how essential it is. The explanation employs a 'Historical Institutionalism' paradigm to illustrate how the volatile social and political environment of the past, coupled with a deficit of public confidence in institutions, facilitated this significant amendment to the CrPC. This perspective illustrates how the CrPC, a shadow of colonialism,

¹ Constitution of the People's Republic of Bangladesh, 1972.

persisted despite its deficiencies until the unprecedented political occurrence of the 2024 revolt, which aligned with decades of judicial advocacy for reform. The essential point is that the new law is a tremendous step forward, but it won't succeed until the state mechanism can tackle some very basic problems in its institutions and daily lives. People won't always follow the law, even if there is one. If the problems of police accountability, political influence, and lack of resources aren't fixed, the reforms that are supposed to be helpful may not function.

1.2. Methodology and Scope

This paper offers an extensive legal and socio-political examination of the second amendment to the CrPC². The scope is limited to a critical examination of the new procedural procedures, their correlation with constitutional rights, the historical backdrop of judicial activism, and the difficulties of practical application. The process is complex, utilizing a synthesis of primary and secondary sources. The first element is a doctrinal examination, which entails looking at major legal documents including the Constitution of Bangladesh, the CrPC, and important Supreme Court of Bangladesh decisions, especially the final decision in *BLAST v. Bangladesh*³. The second section is a contextual analysis that looks at what was going on in politics during the uprising in 2024 and what the interim government's administration was meant to do after that. Third, the study employs documentary research to closely look at public reports and suggestions from the Judicial Reform Commission⁴, which had a direct impact on the reform agenda. Lastly, the study has an implementation evaluation that looks at the flaws and weaknesses in the police and courts that make it hard for them to enforce the new law/s in the real life. This integrated approach helps people comprehend the connection between legal theory and practices in real life.

II. THE JURISPRUDENTIAL MOTIVATION: A PLAN FOR CHANGE IN THE COURTS

2.1. Before the Reforms, the Legal and Constitutional Landscape

Before the reforms of 2025, Bangladesh's criminal justice system was poor since it was based on rules from the colonial era, before having its own Constitution. Many people thought that sections 54 and 167 of the CrPC were means for institutions or law enforcement agencies to misuse their power on a regular basis. Police routinely exploited section 54, which permits them arrest people without a warrant if they have 'credible information' or 'reasonable suspicion' to make random arrests and detain people in jail. The police had a lot of power because these phrases weren't clear, and they regularly exploited it to silence political opponents and stop dissent. Section 167, which lets courts put people in police custody (remand), was also utilized too often, which led to cases of torture and death in captivity. These activities were against the core rights that the Constitution of Bangladesh protects. Article 32 safeguards the right to free and dignified life. Article 33 states, 'No person shall be deprived of personal liberty save in accordance with law'. It also grants individuals who are arrested certain rights, including the right to know the reasons for their arrest, the right to legal counsel, and the right to appear before a magistrate within 24 hours. However, a loophole in Article 33(3) and the existence of special laws, such as the Special Powers Act, 1974 facilitated preventive detention, which successive governments exploited to circumvent constitutional protections and detain individuals for extended periods without charges. There was a wide contrast between the Constitution's high aspirations and the hard realities of how the law worked before the amendment.

2.2. The Important Case of *BLAST v. Bangladesh*

The well-known case of *BLAST v. Bangladesh*⁵, sometimes called the *Rubel Killing Case*, put an end to the long-running fight between constitutional rights and the municipal laws. Human rights groups filed a writ petition after a student called Rubel, died while in police custody, which initiated the case. Section 54 led to Rubel's detention. The petitioner who filed the petition argued that not only were the police misusing sections

² The Code of Criminal Procedure (Second Amendment) Ordinance, 2025 (Ordinance No. 41 of 2025).

³ *BLAST and Others vs. Bangladesh and Others*, 69 DLR (AD) 2017.

⁴ The Judicial Reform Commission (JRC) was formed on 3rd October 2024 by the interim government for the purposes major reforms in the Judiciary of Bangladesh.

⁵ *Bangladesh Legal Aid and Services Trust (BLAST) and others v Bangladesh and others* (2003) 55 DLR (HCD) 363.

54 and 167, but the law itself was also a huge problem.⁶ They said that these restrictions were so confusing and didn't reflect articles 27, 31, 32, 33, and 35 of the Constitution that they were basically against the law. The persons who filed the petition wanted the court to make it plain that police and judges can't conduct things on their own, because that would violate people's basic rights to life and freedom. The Appellate Division of the Supreme Court made its final ruling in 2016. It threw out the government's appeal and upheld the High Court's decisions. This was a powerful and unusual case of judicial aggressiveness. The court's verdict was a complex, multi-part ruling that laid out a plan on how to change things. The courts didn't only announce that the portions were against the law; they also filled in a vacuum in the law and provided a clear set of regulations that everyone could follow. The ruling provided police a 10-point set of standards to follow when they arrest and hold someone, and courts a 9-point list to make sure that the way they do it is in line with constitutional rights. The modifications to the law that happened in 2025 are practically a perfect example of how the courts' actions led to the law's response. The court's thorough and prescriptive approach- requiring the creation of arrest documents, the notification of family within 12 hours, and the opportunity to legal consultation- essentially offered the government a ready-made and court-approved means to address a significant legal problem. This momentous event made the courts a key force for change, forcing the executive and legislative branches to deal with problems they had been ignoring for a long time.

III. THE LEGISLATIVE RESPONSE: THE CRPC (SECOND AMENDMENT) ORDINANCE, 2025

3.1. The Socio-legal claim behind the 2024 Uprising

The creation of the CrPC law wasn't an isolated occurrence; it was linked to the great political transition that happened in Bangladesh in 2024. The mass uprising started as a protest by students against government job quotas, but it swiftly evolved into a bigger protest against the previous government's authoritarianism and economic injustice. There was a rare and delicate possibility for institutional transformation when the Prime Minister stepped down and Professor Muhammad Yunus led a non-partisan interim government. It is beyond necessary that the interim government had a public mandate to 'reboot democracy', which meant that it was the only government that could enact long-overdue law changes that previous governments had rejected because they were politically motivated. The government could follow proposals that were considered as too controversial or politically unwise in the past because they weren't political. In this respect the Code of Criminal Procedure, 1898 inter alia has been reformed for better treatment in this regard.

3.2. The Job of the Judicial Reform Commission

As part of its strategy to make changes, the administration of interim government set up the Judicial Reform Commission. A former Supreme Court Appellate Division Justice was in charge of the commission. The commission's whole report, which was 380 pages long, contained a number of suggestions for how to make a court system that was both useful and impartial.⁷ Some of the key ideas were to create permanent High Court benches in divisional cities to decentralize the judiciary, to create an independent agency to investigate crimes, and to modify the constitution to limit the president's power to pardon criminals. The concerned also said that preventative detention should be ended and that a unified charter of basic rights should incorporate new rights, like the right to bail. These ideas led to direct and immediate revisions in the CrPC. They made it possible to go from a broad reformist mandate to specific changes in the law. The commission's appointment and accompanying report gave the CrPC modifications the legal and political support they needed to go ahead, even though they had previously been approved by the courts for years.

3.3. Taking a look at the main changes

The CrPC (Second Amendment) Ordinance, 2025, made several of the rules from the *BLAST v. Bangladesh* decision into legislation. This has changed a lot about how people are arrested and questioned. The enhanced

⁶ Ibid.

⁷ Judiciary Reform Commission, *Final Report of the Judiciary Reform Commission* (Interim Government of Bangladesh 2025) ('JRC Report 2024') 1.

procedural protections in sections 46A through 46E are the most noteworthy modifications. Section 46A (a) specifies that police officers must have and show a ‘visible and clear identification of his name’. Section 46A(c) indicates that the officer must also write a ‘memorandum of arrest’ that the person being detained must sign or thumbprint and have attested by at least one other person. This portion talks about a significant finding of the BLAST case- the necessity for a record that can be examined to stop random and unrecorded arrests:

Notification to Relatives and Right to Counsel: Sections 46A (d) and 46B specify that a family member or friend must be informed about the arrest and where the person is being kept within 12 hours. This is to make sure that folks don't have to be alone without being able to chat to anyone. Section 46A (f) makes it clear that the individual who was detained has the right to talk to a lawyer of their choice and see a family member within the next 12 hours. These rules make it clear that everyone has the right to a counsel and to fight against torture in jail and forced disappearances.

Medical Examination: Section 46 A(e) stipulates that a doctor shall check out and administer first assistance to anyone who is arrested and has any apparent injuries. The police must also write down why the person got harmed and seek a note from a doctor. This is a very crucial way to keep the police from getting violent.

Changes to Investigations: The new law⁸ introduces section 173A, which permits police officers of the same level seek for an interim investigation report before a case is over. The goal is to make the inquiry process more responsible and manageable. The supervisor can tell the police to check into it again if they think there isn't enough proof against the accused.

The procedural reforms not only added these procedural rights, but it also modernized the law by allowing for online bail bonds and digital summons. Going digital is a step toward making the civil and criminal justice systems work better. The people who draft the laws are working hard to bring the legal system up to date and repair flaws that have been around for a long time.

IV. A CRITICAL EVALUATION: CONNECTING LAW AND PRACTICE

4.1. Constitutional Alignment and Safeguarding of Rights

The CrPC (Second Amendment) Ordinance, 2025, is a huge step forward for Bangladesh's constitutional law. The new procedural safeguards are a direct codification and reinforcement of the Constitution's essential rights i.e. fundamental rights. Article 32 preserves the right to life and personal freedom, while Article 33 protects against being held without reason. These rights are supported by the rules that say arresting officers must identify themselves, that an arrest memo must be made, and that family must be told within 12 hours. Article 35 further guards against torture and harsh, inhuman, or degrading punishment by saying that everyone has the right to a lawyer and a medical exam. The amendment converts the Supreme Court's orders into law. This closes the gap between what the sayings of the Constitution and what actually happens. The statute makes it plain how to fight against violations and make sure the cops are held accountable. This is a huge difference from the undefined and open-ended powers that used to be in place.

4.2. Problems with Implementation: The Institutional and Practical Issues

The new law with procedural reforms has a huge problem, though the distinction between ‘rule of law’ and ‘rule by law’. The law is now on the books, but it won't operate unless the Government fixes some serious flaws with institutions and the way things are done. A new law won't work if the system is broken and people don't get punished for doing wrong. This research indicates that the police force in Bangladesh faces numerous operational challenges. For instance, it doesn't have enough sophisticated forensic labs, transportation to drive to crime scenes, or tech tools. A law that stipulates investigations must be based on evidence and strict procedural documentation can't be completely followed if the instruments needed to do so aren't available. For instance, if an officer doesn't have the necessary tools, they might not be able to write down what happened at a crime scene correctly. Moreover, if they don't have the right technology, they might not be able to pinpoint a suspect's whereabouts. This can cause delays and the loss of evidence. People are less likely to trust the police because they have had low morale, low pay, and a lot of political involvement for a long time. A

⁸ The Code of Criminal Procedure (Amendment) Ordinance, 2025 (Ordinance No. 36 of 2025).

regulation that states police officers have to prepare arrest memoranda carefully and honestly report injuries may not function if they don't feel like they have to follow the law or if outside political forces drive them to flout procedural safeguards. The judicial mind is a big constraint on this, but it has its own boundaries too. This illustrates that the reform is needed but it is not enough to make the system respect rights and work well. The new legislation can just be another set of ideas that aren't being put into reality. For example, 'rule by law' means that a law exists but is only followed or ignored in practice. This is because there isn't a corresponding push to make the police more professional, give them more money, and make sure they can do their jobs without politics getting in the way.

4.3. The Political Legitimacy of the Reform Process

You should also consider about whether the process of transformation is legal. The interim government set up the Constitutional Review Commission to 'reboot democracy'. Some people have called the commission's approach 'apolitical' and 'exclusionary'. They say that the commission didn't include big political parties as well as some minority groups, in its decision-making process. A constitutional framework or a big change to the law is like a social compact that needs a lot of help from the public and lawmakers to work over time. The new legislation could not endure as long if majority of the citizens and their political leaders aren't part of the conversation about the changes. This is similar to how the Thirteenth Amendment⁹ and other changes to the Constitution were weak and were eventually abolished because there was no agreement. A future elected administration that doesn't feel responsibility for the new laws may easily contest or overturn them, even if they are beneficial in theory. This is a contradiction that a reform effort that intends to get rid of authoritarian structures may be using the same methods that produced difficulties in the past. The absence of broad political consensus constitutes a systemic danger, indicating that the intended reforms may devolve into yet another ephemeral democratic experiment.

V. THE NEW RULES AND PROTECTION OF BASIC RIGHTS

In the last few years, Bangladesh's criminal justice system has changed a lot to make sure that the basic constitutional rights are protected and that the enforcement process is more fair, equitable and justiciable. The Supreme Court's historic decisions in *BLAST and Others vs. Bangladesh and Others*¹⁰, the Code of Criminal Procedure (CrPC) Amendments in 2025, and the Constitution's protection of basic rights are all important parts of these changes. It is found in the amendment that these three pillars¹¹ are now more in sync with each other than they have ever been. The Supreme Court, for instance, said that police must write an arrest memo right after they make an arrest to any person. Section 46A(c) of the 2025 CrPC (2nd Amendment) also says that the person who was arrested and a witness must sign the document. Article 32 of the Constitution protects the right to life and freedom, which is what this procedural protection is based on. Section 46A (d) also says that someone arrested by police must be told the causes about the arrest within 12 hours. This is in line with what the Court said and strengthens article 33(1)'s protections against arbitrary imprisonment. Section 46A (f) says that people can talk to a lawyer or a family member at the same time. This is in line with what the courts have said and what the Constitution says. Additionally, section 46A (e) upholds the Supreme Court's order and article 35(5)'s ban on torture by requiring quick medical evaluation and documentation of injuries. The Judicial Reform Commission has also proposed changes to the way the courts are set up to make investigations more independent and stop people from abusing their power by the law enforcement agencies like police. The CrPC (1st Amendment) partially puts these suggestions into action. For instance, section 173A makes it possible for senior officers to supervise other officers, which is a step toward making investigations more accountable. But there is still no completely independent body to look into things. The change also wants to stop frivolous or politically motivated lawsuits by making sure that accusations are based on proof. This means that courts will have to keep an eye on cases more closely before they go to trial. Limits on random

⁹ Thirteenth Amendment to the Constitution of the People's Republic of Bangladesh, 1996.

¹⁰ *Bangladesh Legal Aid and Services Trust & Ors. vs. Bangladesh & Ors.*, 69 DLR (AD) 2017.

¹¹ The Supreme Court's Landmark Ruling in *BLAST and Others vs. Bangladesh and Others*, 69 DLR (AD) 2017, the 2nd Amendment of 2025, which codified many of the Court's directives into binding legal provisions (e.g., Sections 46A (c), (d), (e), and (f)), and Art. 32, 33, and 35 of the Constitution which guarantee fundamental rights.

arrests also try to cut down on the use of preventative detention, especially under laws that are controversial, like the Special Powers Act, 1974 and make it easier for people to get bail. Bangladesh's criminal justice system is changing, as shown by these court decisions, new laws, and constitutional requirements. It is moving toward due process, holding people accountable, and protecting people's rights.

VI. RECOMMENDATION

The advancement of procedural reform with safeguarding fundamental rights is a unique and long cherished demand. But this shift doesn't happen on its own. The research has shown important problems that need to be fixed in order for the reform to work and last. The new law is legal, but it might not operate in practice unless there is a detailed plan to fix problems with politics and institutions. These tips are very crucial to make sure that these modifications last:

Enhancing Police Remuneration: Remuneration and benefits of the police should be increased supported with modern technology so they can buy and keep up with new crime scene management trucks, forensic labs, and tools for investigating. The state can't make the new law operative unless it ensure the necessary tools for the law enforcement agency.

Promoting a Culture of Responsibility: Police officers and judges require focused training programs immediately away, along with reforms to the law. People should learn about human rights, why it's necessary to respect the rules, and what happens if you don't in these programs. This would go along with the work that is already being done to make police work more professional and based on human rights.

Building Public Trust & Inclusion: In the future, changes should make politics open to everyone. Some people were not included in the recent reform process, which is a long-term threat to its success. Any future efforts to amend the law or the Constitution must stem from a comprehensive and transparent dialogue involving all principal political parties and diverse communities. This is vital for earning the public's trust and political support, which will block a future administration from getting rid of the new legislation.

Strengthening Judicial Independence: The Judicial Reform Commission's ideas for keeping the courts' finances and administration apart from each other must be put into action. The only way to secure the new procedural safeguards is to have a court that is truly independent and not influenced by the executive branch. It will also be the final say on any disputes about their usage.

VII. CONCLUSION

The CrPC (Second Amendment) Ordinance, 2025, is a huge advancement toward the balanced application of the law. It was conceivable because of a rare mix of things- years of judicial activity, the political will of a temporary government and a solemn will of the mass people that Bangladesh as a state must respect the people's rights more. The new law does a fantastic job of setting out the important rules that came out of the BLAST v. Bangladesh case. This is a huge step toward a criminal justice system that, at least on paper, finally follows the Constitution's basic rights. Moving from a system that relies on vague, arbitrary power to one that requires clear, written rules is a great step forward from a history of 'rule by law' to a real 'rule of law'. The CrPC (Second Amendment) Ordinance, 2025, is a major step in the right direction, but it's only the first and most crucial one. The government and the people of Bangladesh need to be able to fix the long-standing problems with institutions and politics for the criminal justice system to work.

REFERENCES

Laws and Cases

- [1] The Constitution of Bangladesh, 1972
- [2] The Code of Criminal Procedure, 1898 (Act No. V of 1898)
- [3] The Code of Criminal Procedure (Amendment) Ordinance, 2025 (Ordinance No. 36 of 2025)
- [4] The Code of Criminal Procedure (Second Amendment) Ordinance, 2025 (Ordinance No. 41 of 2025)

Books

- [1] Shahid M Shahidullah (ed), *Crime, Criminal Justice, and the Evolving Science of Criminology in South Asia: India, Pakistan, and Bangladesh* (Palgrave Macmillan 2017).
- [2] Sarker Ali Akkas, *Law of Criminal Procedure* (6th edn, Initiative for Research and Access to Justice 2022).
- [3] M Enamul Hoque, *Criminal Justice System Administration: An Anthology* (Self-published 2021).
- [4] Tajuddin Ahmed Mondol, *Rulings on Criminal Procedure* (Bangladesh Law Book Company 2019).
- [5] Mahmudul Islam, *Constitutional Law of Bangladesh* (3rd edn, Mullick Brothers 2020).
- [6] ASM Sulaiman, *Police Powers and Accountability in Bangladesh* (Dhaka Law Reports Publication 2018).
- [7] Kamal Hossain, *Human Rights in Bangladesh: Past, Present and Future* (University Press Limited 2016).
- [8] Mizanur Rahman, *Access to Justice and Legal Empowerment in Bangladesh* (Empowerment through Law of the Common People 2017).
- [9] Md Abdul Halim, *Constitution, Constitutional Law and Politics: Bangladesh Perspective* (3rd edn, CCB Foundation 2021).
- [10] Asif Nazrul, *Judicial Reform and Rule of Law in Bangladesh* (University of Dhaka Press 2015).

Journal Article

- [1] Md Kamal Uddin, 'Human Rights Abuses and Criminal Justice in Policing Practices in Bangladesh' (2022) 5(3) *Criminology and Criminal Justice* 233.
- [2] SM Shahinuzzaman and others, 'Promoting Access to Justice in Bangladesh: Towards a Hybrid Justice Model' (2024) 77 *International Journal of Law, Crime and Justice* 100655.
- [3] KF Rahman, 'Ensuring Victims' Participation in the Criminal Justice of Bangladesh' (2022) 11 *International Journal of Criminology and Sociology* 82.
- [4] Md Jakir Hossain, 'Preventive Detention and Section 54 of the Code of Criminal Procedure: The Violation of Human Rights in Bangladesh' (2025) 9(4) *International Journal of Research and Innovation in Social Science* 112.
- [5] Pranto Kumar Sarker, Maruf Ahmed and Md Zahidul Islam, 'Police Accountability in Criminal Investigation: USA and Bangladesh' (2024) 10(2) *Journal of Asian and African Social Science and Humanities* 64.
- [6] Jobair Alam and Ali Mashraf, 'Fifty Years of Human Rights Enforcement in Legal and Political Systems in Bangladesh: Past Controversies and Future Challenges' (2023) 24(1) *Human Rights Review* 17.
- [7] Jubaida Auhana Faruque and Md Rafiqul Islam, 'Human Rights in Bangladesh: Success and Challenges' in F Khan and A Banu (eds), *Human Rights in South Asia* (Intech Open 2023).
- [8] Md Yeasin Majumder, 'Mob Justice and the Collapse of Legal Order in Bangladesh: A Constitutional Crisis in the Absence of the Rule of Law' (2025) 3(2) *International Journal of Legal, Social and Security Studies* 113.