Case Study Series 1 : Learning from Innovative Civil Servants

Case Title:

Fair Play in Justice: A Lottery System Ensuring Transparency and Just Case Loads for Magistrates in Bangladesh

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The Role of Executive Magistrates in Bangladesh

In Bangladesh, Magistrates traditionally played a distinct juducial role, especially before the 2007 amendments to the Code of Criminal Procedure, 1898. Before these changes, magistrate courts were staffed by officers from the Bangladesh Civil Service (Administration). Since November 1 2007 the introduction of four service rules[1] by the caretaker government, with an aim to make judiciary independent, the Executive Magistrates no longer presided over courts and were given limted powers to handle certain minor offences. This case study focuses on the period before 2007, specifically addressing the role of Magistrates in dspension of justice. The courts they presided over, known as magistrate courts, operated under the provisions of the Code of Criminal Procedure, 1898 (Hannan & Arifuzzaman, 2021).

While Executive Magistrates had the authority to grant bail, inconsistencies in their decisions opened the door to exploitation. Certain magistrates were perceived as more permissive, making them the preferred choice for lawyers seeking favorable outcomes. This led to concerns about a possible "unholy nexus," where some people raised questions, and some magistrates were even suspected of using corrupt means to issue easy bail.

Problem

Lawyers in the court of magistrates flocked to easy going magistrates for bail, overburdening them and raising concerns about fairness and transparency.

Solution

A lottery system was introduced to randomly select magistrates just before hearings, effectively preventing lawyer influence and ensuring a more equitable distribution of cases.

Outcome

The lottery system enhanced transparency and fairness, balancing the workload among magistrates and resulting in more timely and just verdicts.

To address this issue, a Deputy Commissioner (Mr. X) developed a policy where the names of the magistrates dealing with a particular case remained undisclosed until the day of the hearing. On the morning of the hearing day, the responsible magistrate was selected through a lottery system, ensuring a fairer process.

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[1] The four rules effective from November 01, 2007, were - Bangladesh Judicial Service Commission Rules, 2007; Bangladesh Judicial Service (Pay Commission) Rules 2007; Bangladesh Judicial Service Commission (Construction of Service, Appointments in and Suspension, Removal & Dismissal from the Service) Rules, 2007; and Bangladesh Judicial Service (Posting, Promotion, Grant of Leave, Control, Discipline and other Condition of Service) Rules, 2007.

Lottery System for Fair and Efficient Case Distribution for Bail Petitions

The lottery system was designed so that lawyers would not know in advance which magistrate would handle their cases. The names of the magistrates remained undisclosed until the day of the hearing, preventing any opportunity for lawyers to influence the selection process and eliminating any possibility of an 'unholy alliance' with corrupt lawyers. This system improved the overall efficiency and fairness of the bail petition process. By distributing cases more evenly among all executive magistrates, the workload was balanced, preventing any single magistrate from being overworked. Additionally, this approach saved time and reduced the potential for biased verdicts, contributing to a more equitable judicial process.

The lottery system for selecting magistrates for bail petitions proved to be an effective solution in ensuring fairness and transparency. By randomizing the selection process, the system minimized lawyer influence and promoted a more balanced distribution of cases, leading to more just outcomes. This case study highlights the importance of innovative policy measures in addressing systemic issues within the judicial system.

Reference

Hannan, M. A., & Arifuzzaman, Md. (2021). Separation of judiciary and judicial independence in Bangladesh: An appraisal. OALib, 08(04), 1–21. https://doi.org/10.4236/oalib.1107002

Declarations

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