



Research Monograph

On

“The Crucial Role of the Civil Justice System in Bangladesh”

A Thesis Submitted in Partial Fulfillment of the Requirements for the degree of Master of Laws (LLM) Department of Law, Sonargaon University (SU)

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Subject : Submission of Research Monograph.

Dear Madam,

With due respect to state that , I am **Afra Anjum Ayesha** Student of the LLM Program . Bearing ID No.LLM2502033001, Department of Law of your University. It gives me immense pleasure to submit the Research on “**The Crucial Role of the Civil Justice System in Bangladesh**”. It was a great pleasure to work on such an important topic . This Research work has been done according to the requirement to fulfill the degree of LLM program. I have concentrated my best efforts to achieve the objectives of the work and hope that my endeavor will serve the purpose.

Therefore, I Pray and hope that you would be kind enough to accept my Research and oblige thereby.

Sincerely yours

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Declaration

I hereby solemnly declare that the work presented in this research Monograph entitle **“The Crucial Role of the Civil Justice System in Bangladesh”** has been carried out by me under supervision of Sharmin Jahan Runa , Assistant Professor & Head ,Department of Law, Sonargaon University (SU) and has not previously submitted to any other institution . The work I have presented does not breach copyrights. Further undertake to identify the university against any loss or damage rising from breach of forgoing obligation.

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Certificate of the thesis supervisor

This is to certify that Research Monograph entitled “**The Crucial Role of the Civil Justice System in Bangladesh**” is done by **Afra Anjum Ayesha** partial fulfillment of the requirement of the degree of LLM from Sonargaon University (SU) . The Research Monograph has been carried out under my guidance is a record of the bona fide work.

Sharmin Jahan Runa
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Acknowledgement

A Successful completion of any course needs support from many personnel and I am lucky enough that I have got it while doing work for this paper .

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Abstract

The civil justice system is a fundamental institution for ensuring the rule of law, protecting legal rights, and maintaining social order in Bangladesh. It provides mechanisms through which individuals and organizations may seek remedies for violations of civil rights relating to property, contracts, family matters, inheritance, and other legal interests. A well-functioning civil justice system contributes significantly to economic development by promoting contractual certainty and protecting investments. Furthermore, it strengthens democratic governance by ensuring access to justice and equality before the law.

Despite its constitutional importance, the civil justice system in Bangladesh faces numerous challenges, including excessive case backlogs, procedural delays, inadequate judicial resources, and high litigation costs. These challenges hinder the effective administration of justice and reduce public confidence in judicial institutions. This thesis examines the structure, functions, significance, and challenges of the civil justice system in Bangladesh. It also evaluates existing reforms and proposes recommendations for improving efficiency, accessibility, and accountability within the justice sector.

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Chapter 1

Introduction

1. 1 Introduction:

Justice constitutes one of the essential foundations of a civilized society. The administration of justice ensures the protection of rights, maintenance of public order, and peaceful settlement of disputes. Within the legal framework of Bangladesh, the civil justice system performs a crucial role by resolving disputes concerning private rights and obligations. Unlike criminal law, which focuses on offences against the state and society, civil law primarily addresses conflicts between individuals, organizations, and other legal entities.¹

The civil justice system serves as a mechanism through which citizens may seek remedies for infringements of legal rights. It encompasses a broad range of matters, including property disputes, contractual disagreements, family conflicts, inheritance claims, tortious liability, and commercial transactions.² Through judicial intervention, civil courts provide remedies such as damages, injunctions, declarations, and specific performance.

The Constitution of the People's Republic of Bangladesh recognizes the rule of law as a fundamental principle of governance. Articles 27 and 31 guarantee equality before the law and equal protection of the law.³ Furthermore, Articles 94 to 116A establish an independent judiciary responsible for administering justice and protecting constitutional rights.⁴ Consequently, the civil justice system occupies a central position in safeguarding legal rights and maintaining public confidence in the legal order.

In recent decades, Bangladesh has experienced significant social and economic transformation. Rapid urbanization, industrialization, and increased commercial activities have generated a growing number of civil disputes. As a result, the effectiveness of the civil justice system has become increasingly important for ensuring social stability and sustainable economic development.⁵ However, the system continues to face substantial challenges, including delays in case disposal, shortages of judicial personnel, and procedural complexities. These challenges necessitate a comprehensive examination of the role and effectiveness of the civil justice system in contemporary Bangladesh.

1.M Rafiqul Islam, *An Introduction to Jurisprudence and Legal Theory* (Mullick Brothers 2018) 156.

2.C K Takwani, *Civil Procedure* (8th edn, Eastern Book Company 2017) 12.

3.Constitution of the People's Republic of Bangladesh 1972, arts 27 and 31.

4.Constitution of the People's Republic of Bangladesh 1972, arts 94–116A.

5.Md Abdul Halim, *Constitution, Constitutional Law and Politics: Bangladesh Perspective* (CCB Foundation 2019) 241.

1.2 Statement of the Problem:

Although the civil justice system plays an indispensable role in protecting rights and resolving disputes, many litigants in Bangladesh encounter significant obstacles in obtaining timely justice. Prolonged delays, case backlogs, and financial constraints often undermine the effectiveness of legal remedies. Consequently, questions arise regarding the capacity of the civil justice system to fulfill its constitutional mandate efficiently and fairly.

1.3 Research Objectives:

The primary objectives of this study are:

1. To examine the structure and jurisdiction of civil courts in Bangladesh.
2. To analyze the role of the civil justice system in protecting legal rights.
3. To evaluate the contribution of civil justice to social and economic development.
4. To identify major challenges affecting the administration of civil justice.
5. To recommend measures for strengthening the effectiveness of the civil justice system.

1.4 Research Questions:

This thesis seeks to answer the following questions:

- a) What is the legal and constitutional foundation of the civil justice system in Bangladesh?
- b) How does the civil justice system contribute to the protection of civil rights?
- c) What role does civil justice play in economic development and social stability?
- d) What challenges hinder the effective functioning of civil courts?
- e) What reforms are necessary to improve access to civil justice?

1.5 Methodology:

This research adopts a doctrinal methodology. Primary sources include the Constitution of Bangladesh, the Civil Courts Act 1887, the Code of Civil Procedure 1908, and relevant judicial decisions. Secondary sources include books, journal articles, reports, and academic commentaries concerning the judiciary and civil justice administration.

1.6 Significance of the study:

The significance of this study lies in its examination of the relationship between civil justice, the rule of law, and national development. The findings may contribute to academic discourse

and assist policymakers, legal practitioners, and judicial administrators in understanding the strengths and weaknesses of the existing civil justice framework.

1.7 Limitations of the Study:

Like any academic research, this study is subject to certain limitations. First, the research primarily adopts a doctrinal methodology based on the analysis of statutes, judicial decisions, books, journal articles, and official reports. Consequently, empirical data obtained through interviews, surveys, or field observations could not be extensively incorporated.

Second, the study focuses mainly on the civil justice system of Bangladesh and does not provide an exhaustive comparative analysis of civil justice systems in other jurisdictions. Comparative references have been included only where necessary to illustrate best practices and reform initiatives.

Third, access to up-to-date statistical information regarding case backlogs, disposal rates, and judicial performance was limited due to the unavailability of comprehensive and regularly updated official data. Therefore, some observations are based on published reports and secondary sources.

Fourth, the scope of the study is confined to the formal civil justice system, including civil courts and related legal frameworks. Specialized tribunals and alternative dispute resolution mechanisms are discussed only to the extent relevant to the administration of civil justice.

Finally, due to time and resource constraints, it was not possible to examine every aspect of civil litigation and judicial administration in Bangladesh. Nevertheless, every effort has been made to ensure that the research provides a comprehensive and balanced analysis of the crucial role of the civil justice system in Bangladesh.

Chapter 2

Constitutional and Legal Framework of the Civil Justice System in Bangladesh

2.1 Introduction:

The civil justice system in Bangladesh derives its authority from the Constitution and various statutory enactments governing the administration of justice. The Constitution establishes the judiciary as an independent organ of the State and guarantees access to justice through the enforcement of legal rights. The effectiveness of civil justice depends upon a sound legal framework that clearly defines jurisdiction, powers, procedures, and remedies available to litigants.⁶

2.2 Constitutional Basis of the Civil Justice System:

The Constitution of the People's Republic of Bangladesh is the supreme law of the land. Article 7 declares the Constitution as the fundamental law and provides that any law inconsistent with it shall be void to the extent of such inconsistency.⁷

The Constitution recognizes the rule of law as a fundamental principle of state policy. Article 27 guarantees equality before the law, while Article 31 ensures the right to protection of law for every citizen.⁸ These provisions form the constitutional foundation of the civil justice system because they require courts to provide equal access to legal remedies and ensure fairness in judicial proceedings.

The independence of the judiciary is guaranteed under Articles 94 to 116A of the Constitution. Article 94 establishes the Supreme Court of Bangladesh, consisting of the Appellate Division and the High Court Division.⁹ The judiciary functions independently from the executive branch and serves as the guardian of constitutional rights and legal protections.

2.3 The Rule of Law and Civil Justice:

The concept of the rule of law requires that all persons, institutions, and authorities operate under the law and remain accountable to it. According to Dicey, the rule of law encompasses supremacy of law, equality before the law, and the protection of individual rights through ordinary legal processes.¹⁰

Civil courts play a crucial role in maintaining the rule of law by resolving disputes according to established legal principles rather than arbitrary decisions. Through judicial review and adjudication, courts ensure that legal rights are protected and obligations are enforced.

6.Md Abdul Halim, Constitution, Constitutional Law and Politics: Bangladesh Perspective (CCB Foundation 2019) 241.

7.Constitution of the People's Republic of Bangladesh 1972, art 7.

8.Constitution of the People's Republic of Bangladesh 1972, arts 27 and 31.

9.Constitution of the People's Republic of Bangladesh 1972, art 94.

10.AV Dicey, Introduction to the Study of the Law of the Constitution (10th edn, Macmillan 1959)

In *Bangladesh Italian Marble Works Ltd v Government of Bangladesh*, the Appellate Division emphasized the importance of constitutional supremacy and the rule of law within the legal system.¹¹ The decision reaffirmed that governmental actions must conform to constitutional principles and legal standards.

2.4 The Civil Courts Act 1887:

The Civil Courts Act 1887 provides the statutory basis for the organization and functioning of subordinate civil courts in Bangladesh.¹² The Act establishes various categories of civil courts and defines their jurisdiction and authority.

The principal courts established under the Act include:

Assistant Judge Court

Senior Assistant Judge Court

Joint District Judge Court

Additional District Judge Court

District Judge Court

Each court exercises jurisdiction according to pecuniary limits and subject-matter competence prescribed by law.

2.5 The Code of Civil Procedure 1908:

The Code of Civil Procedure 1908 (CPC) is the principal procedural law governing civil litigation in Bangladesh.¹³ It regulates the institution of suits, service of summons, production of evidence, conduct of trials, appeals, execution of decrees, and other procedural matters.

The CPC seeks to ensure fairness, transparency, and consistency in judicial proceedings. It establishes rules designed to facilitate the efficient resolution of disputes while safeguarding the rights of litigants.

The Code also incorporates Alternative Dispute Resolution (ADR) mechanisms through sections 89A–89C, enabling parties to resolve disputes through mediation and negotiation.¹⁴

11. *Bangladesh Italian Marble Works Ltd v Government of Bangladesh* (2010) 62 DLR (AD) 298.

12. Civil Courts Act 1887.

13. Code of Civil Procedure 1908.

14. Code of Civil Procedure 1908, ss 89A–89C.

2.6 Jurisdiction of Civil Courts:

Civil courts generally possess jurisdiction to adjudicate all suits of a civil nature unless expressly barred by law. Section 9 of the Code of Civil Procedure provides:

“The courts shall have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.”¹⁰

This provision reflects the broad authority of civil courts to hear disputes involving legal rights and obligations.

2.7 Judicial Review and Protection of Rights:

The High Court Division possesses constitutional authority to enforce fundamental rights and review administrative actions through writ jurisdiction under Article 102 of the Constitution.¹¹

Although writ proceedings are constitutional in nature, they significantly influence civil justice by protecting individuals against unlawful actions by public authorities. Judicial review strengthens accountability and ensures adherence to legal standards.

In *Anwar Hossain Chowdhury v Bangladesh*, the Appellate Division established the Basic Structure Doctrine and reinforced the judiciary's role as guardian of constitutional governance.¹²

2.8 Legal Aid and Access to Justice:

Access to justice constitutes a fundamental component of an effective civil justice system. Recognizing that financial barriers often prevent disadvantaged individuals from seeking legal remedies, Bangladesh enacted the Legal Aid Services Act 2000.¹³

The Act establishes a framework for providing legal assistance to indigent litigants and promoting equal access to justice. Legal aid programs have contributed significantly to expanding opportunities for vulnerable groups to assert their legal rights.

11.Code of Civil Procedure 1908, s 9.

12.Constitution of the People's Republic of Bangladesh 1972, art 102.

13.Anwar Hossain Chowdhury v Bangladesh (1989) 41 DLR (AD) 165.

2.9 Alternative Dispute Resolution (ADR):

Alternative Dispute Resolution has emerged as an important component of civil justice reform. ADR mechanisms offer several advantages, including reduced costs, expedited dispute resolution, confidentiality, and preservation of relationships between parties.¹⁴

The incorporation of ADR into the Code of Civil Procedure reflects legislative efforts to reduce case backlogs and improve judicial efficiency.

14. C k Takwani, Civil Procedure (8th edition, Eastern Book Company 2017) 89

Chapter 3

Structure and Jurisdiction of Civil Courts in Bangladesh

3.1 Introduction:

The effectiveness of a civil justice system largely depends upon the organization and jurisdiction of its courts. In Bangladesh, the civil court structure is designed to ensure that disputes of a civil nature are resolved through a hierarchical judicial framework. The system consists of the Supreme Court and subordinate civil courts established under statutory law.¹⁵ Through this structure, litigants are provided with opportunities for adjudication, appeal, and review, thereby ensuring fairness and accountability in the administration of justice.

3.2 Hierarchy of Civil Courts:

The judiciary of Bangladesh is broadly divided into superior courts and subordinate courts. The Supreme Court occupies the highest position in the judicial hierarchy and consists of the Appellate Division and the High Court Division.¹⁶ Below the Supreme Court are the subordinate courts established under the Civil Courts Act 1887.

The hierarchy of civil courts is as follows:

Assistant Judge Court

Senior Assistant Judge Court

Joint District Judge Court

Additional District Judge Court

District Judge Court

High Court Division

Appellate Division

This hierarchical arrangement facilitates the efficient disposal of disputes and provides litigants with appellate remedies against judicial errors.¹⁷

15. Md Abdul Halim, Constitution, Constitutional Law and Politics: Bangladesh Perspective (CCB Foundation 2019) 245.

16. Constitution of the People's Republic of Bangladesh 1972, art 94.

17. M Shah Alam, Judiciary and Constitutional Governance in Bangladesh (New Warsi Book Corporation 2016) 113.

3.3 The Supreme Court of Bangladesh:

The Supreme Court is established under Article 94 of the Constitution and serves as the apex judicial institution of the country.¹⁸

3.3.1 Appellate Division:

The Appellate Division is the highest court of appeal in Bangladesh. It hears appeals from judgments, decrees, orders, and sentences of the High Court Division.¹⁹

The decisions of the Appellate Division are binding upon all subordinate courts and authorities. As the final interpreter of the Constitution and laws of Bangladesh, it plays a critical role in ensuring consistency and uniformity in judicial decision-making.

3.3.2 High Court Division:

The High Court Division exercises both original and appellate jurisdiction. It hears appeals from subordinate courts and exercises supervisory authority over them.²⁰

The High Court Division also possesses constitutional jurisdiction under Article 102 to issue writs for the enforcement of fundamental rights and judicial review of administrative actions.²¹

3.4 Subordinate Civil Courts:

Subordinate civil courts form the backbone of the civil justice system because they adjudicate the majority of civil disputes arising throughout the country.

3.4.1 Assistant Judge Court:

The Assistant Judge Court is the lowest tier of the civil court hierarchy. It deals with civil disputes falling within its pecuniary jurisdiction as prescribed by law.²²

18. Constitution of the People's Republic of Bangladesh 1972, art 94.

19. Constitution of the People's Republic of Bangladesh 1972, art 103.

20. Constitution of the People's Republic of Bangladesh 1972, arts 101–102.

21. Constitution of the People's Republic of Bangladesh 1972, art 102.

22. Civil Courts Act 1887.

Assistant Judges frequently hear cases involving:

Property disputes

Injunction suits

Recovery of money

Partition suits

Declaration suits

These courts serve as the first point of access to justice for many citizens.

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Assistant Judges frequently hear cases involving:

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Injunction suits

Recovery of money

Partition suits

Declaration suits

These courts serve as the first point of access to justice for many citizens.

3.4.2 Senior Assistant Judge Court:

Senior Assistant Judge Courts exercise broader pecuniary jurisdiction and hear more complex civil disputes than Assistant Judge Courts.²⁴

These courts also perform important judicial functions in relation to appeals and procedural matters assigned by legislation.

22.Ibid

23.Ibid

24. ibid

3.4.3 Joint District Judge Court:

Joint District Judge Courts possess original jurisdiction in higher-value civil disputes and appellate jurisdiction over decisions of lower courts.²⁵

Commercial litigation, land disputes, and complex civil matters frequently come before these courts.

3.4.4 Additional District Judge Court:

Additional District Judges assist District Judges in disposing of civil appeals and original suits assigned to them.²⁶

Their jurisdiction is generally equivalent to that of District Judges concerning matters allocated by administrative order.

3.4.5 District Judge Court:

The District Judge Court is the highest court at the district level. It hears appeals from subordinate courts and exercises supervisory authority over civil courts within the district.²⁷

District Judges also perform administrative functions relating to court management and judicial administration.

3.5 Jurisdiction of Civil Courts:

Jurisdiction refers to the legal authority of a court to hear and determine disputes. Civil courts exercise jurisdiction according to law and may be classified into several categories.

3.5.1 Territorial Jurisdiction:

Territorial jurisdiction determines the geographical area within which a court may exercise authority.²⁸

25. Code of Civil Procedure 1908, ss 15–20.

26. C K Takwani, Civil Procedure (8th edn, Eastern Book Company 2017) 143.

27. Mulla, The Code of Civil Procedure (19th edn, LexisNexis 2017) 51.

28. Code of Civil Procedure 1908, ss 96–112.

Generally, a suit may be instituted where:

The defendant resides;

The cause of action arises; or

The property in dispute is situated.

3.5.2 Pecuniary Jurisdiction:

Subject-matter jurisdiction refers to the authority of a court to adjudicate specific categories

Pecuniary jurisdiction refers to the monetary limits within which a court may hear disputes.²⁹

Different courts possess different pecuniary limits to ensure the efficient distribution of cases throughout the judicial hierarchy.

3.5.3 Subject-Matter Jurisdiction:

of disputes.³⁰

Certain matters may fall exclusively within the jurisdiction of specialized tribunals established by statute, while ordinary civil courts retain authority over general civil disputes.

3.6 Appellate Jurisdiction:

The appellate system constitutes an essential safeguard against judicial error. Parties dissatisfied with judgments of subordinate courts may appeal to higher courts according to procedures established by law.³¹

The appellate process promotes:

Uniform application of law;

Correction of judicial mistakes;

Protection of litigants' rights;

Public confidence in the administration of justice.

29. Constitution of the People's Republic of Bangladesh 1972, art 109.

30. Artha Rin Adalat Act 2003; Family Courts Ordinance 1985; Environment Court Act 2010.

31. HWR Wade and CF Forsyth, Administrative Law (11th edn, OUP 2014) 27.

3.7 Supervisory Jurisdiction of the High Court Division

Article 109 of the Constitution confers supervisory authority upon the High Court Division over all subordinate courts and tribunals.

This supervisory jurisdiction enables the High Court Division to:

Ensure compliance with legal procedures;

Correct jurisdictional errors;

Promote judicial accountability;

Maintain uniform standards in the administration of justice.

3.8 Specialized Civil Courts and Tribunals:

In addition to ordinary civil courts, Bangladesh has established specialized courts and tribunals to address particular categories of disputes.

Examples include:

Artha Rin Adalat (Loan Recovery Court);

Family Courts;

Labour Courts;

Administrative Tribunals;

Environment Courts.

These specialized institutions improve efficiency by providing expertise and expedited procedures for specific types of litigation.

3.9 Importance of the Court Structure:

The hierarchical structure of civil courts contributes significantly to the administration of justice. It:

Facilitates access to justice at local levels;

Ensures consistency through appellate review;

Promotes accountability among judicial officers;

Enables efficient management of civil disputes;

Protects litigants against arbitrary decision-making.

The existence of multiple levels of judicial review strengthens public confidence in the fairness and reliability of the legal system.

Chapter 4

The Crucial Role OF The Civil Justice System in Bangladesh

4.1 Protection of Legal Rights:

One of the primary functions of the civil justice system is the protection of legal rights. Civil courts provide remedies where individuals suffer violations of their rights relating to property, contracts, inheritance, family relations, and other civil matters.³²

The Constitution guarantees equality before the law and equal protection of the law.³³ These constitutional guarantees would be ineffective without courts capable of enforcing them. Civil courts therefore serve as institutions through which citizens can seek practical enforcement of their legal rights.

For example, when property rights are infringed, courts may grant declarations of ownership, injunctions preventing unlawful interference, or orders for recovery of possession. Similarly, where contractual obligations are breached, courts may award damages or order specific performance of contracts.

The protection of rights through judicial remedies promotes public confidence in the legal system and discourages unlawful conduct.

4.2 Maintenance of the Rule of Law:

The rule of law is a fundamental principle of constitutional governance. According to Dicey, the rule of law requires the supremacy of law, equality before the law, and protection of rights through legal institutions.³⁴ Civil courts play an indispensable role in maintaining the rule of law by ensuring that disputes are resolved according to established legal principles rather than arbitrary decisions or personal influence.³⁵

The judiciary acts as a neutral forum where parties can present evidence and legal arguments before an impartial judge. Through this process, civil courts uphold legal certainty and prevent the misuse of power.

In *Bangladesh Italian Marble Works Ltd v Government of Bangladesh*, the Appellate Division emphasized the supremacy of the Constitution and reaffirmed the importance of judicial oversight in maintaining constitutional governance.³⁶

32. C K Takwani, *Civil Procedure* (8th edn, Eastern Book Company 2017) 21.

33. Constitution of the People's Republic of Bangladesh 1972, arts 27 and 31.

34. AV Dicey, *Introduction to the Study of the Law of the Constitution* (10th edn, Macmillan 1959) 188.

35. HWR Wade and CF Forsyth, *Administrative Law* (11th edn, OUP 2014) 25.

36. *Bangladesh Italian Marble Works Ltd v Government of Bangladesh* (2010) 62 DLR (AD) 298.

The maintenance of the rule of law is particularly important in developing democracies because it promotes stability, accountability, and public trust in government institutions.

4.3 Peaceful Resolution of Disputes:

Disputes are inevitable in every society. Conflicts may arise concerning property ownership, contractual obligations, inheritance rights, commercial transactions, and family relationships.

The civil justice system provides peaceful and lawful mechanisms for resolving such disputes.³⁷ Instead of resorting to violence or self-help measures, parties may seek judicial determination of their rights and obligations.

This function contributes significantly to social harmony and public order. Courts reduce tensions by providing impartial adjudication based on legal principles and evidence.

Without an effective civil justice system, private disputes could escalate into broader social conflicts, threatening community stability and public security.

4.4 Protection of Property Rights:

Property rights constitute one of the most important categories of civil rights protected by courts in Bangladesh. Land disputes represent a substantial portion of civil litigation due to the economic and social significance of land ownership.³⁸

The protection of property rights serves several important purposes:

Preservation of legal ownership;

Prevention of unlawful dispossession;

Promotion of investment confidence;

37. Takwani (n3)33.

38.M Shah Alam(n 2)120

Maintenance of social stability :

Civil courts adjudicate disputes relating to ownership, possession, partition, inheritance, and transfer of property. Through judicial intervention, courts ensure that property rights are protected according to law.

Strong protection of property rights encourages economic activity by providing certainty and security to property owners.

4.5 Enforcement of Contracts:

Contracts form the foundation of modern economic relations. Commercial transactions, employment relationships, business partnerships, and financial arrangements all depend upon contractual obligations.

The civil justice system ensures that contracts are legally enforceable.³⁹ Where one party fails to perform contractual obligations, courts may grant remedies including:

Damages;

Specific performance;

Injunctions;

Rescission of contracts.

The ability to enforce contracts through courts promotes confidence among businesses and investors. Economic actors are more likely to engage in commercial transactions when legal remedies exist for breaches of contractual obligations.

Consequently, the civil justice system contributes directly to economic development and market stability.

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39. Richard A Posner, Economic Analysis of Law (9th edn , wolters Kluwer 2014)621

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Consequently, the civil justice system contributes directly to economic development and market stability.

4.7 Contribution to Economic Development:

An effective civil justice system is widely recognized as a prerequisite for sustainable economic growth.⁴¹

Economic development depends upon:

Secure property rights;

Enforceable contracts;

Predictable legal outcomes;

Investor confidence.

40. Douglass C North, *Institutions, Institutional Change and Economic Performance* (Cambridge University Press 1990) 54.

41. Constitution of the People's Republic of Bangladesh 1972, art 31.

Civil courts contribute to these objectives by providing legal certainty and protecting economic interests.

Foreign investors often consider the effectiveness of a country's judicial system before making investment decisions. Efficient dispute resolution mechanisms reduce business risks and encourage investment.

Furthermore, commercial disputes resolved through judicial processes facilitate smooth functioning of markets and strengthen economic institutions.

Therefore, the civil justice system serves not only legal objectives but also broader economic goals.

4.8 Access to Justice:

Access to justice represents a fundamental component of democratic governance and human rights protection.⁴²

The civil justice system provides individuals with opportunities to seek legal remedies regardless of social status, economic background, or political influence.

The Legal Aid Services Act 2000 was enacted to improve access to justice for economically disadvantaged individuals.⁴³ Legal aid programs assist vulnerable populations by reducing financial barriers to litigation.

Access to justice promotes social inclusion and ensures that legal rights are meaningful in practice rather than merely theoretical guarantees.

A society where citizens cannot effectively access courts cannot fully realize the principles of equality and justice.

4.9 Protection of Vulnerable Groups:

Civil courts play an important role in protecting vulnerable groups, including:

Women;

Children;

Persons with disabilities;

Elderly individuals;

42. Legal Aid Services Act 2000.

43. Family Courts Ordinance 1985.

Economically disadvantaged persons.

Family courts adjudicate matters relating to maintenance, guardianship, custody, and marital disputes.

Judicial intervention often provides essential protection against discrimination, exploitation, and deprivation of legal rights.

The civil justice system therefore contributes significantly to social justice and human dignity.

Chapter 5

Challenges Facing In Civil Justice System In Bangladesh

5.1 Case Backlog:

One of the most serious problems affecting the civil justice system is the enormous backlog of pending cases. Civil disputes often remain unresolved for years due to the large number of cases and limited judicial capacity.

The consequences of case backlog include:

Delayed justice;

Increased litigation costs;

Loss of evidence;

Public dissatisfaction;

Reduced confidence in courts.

The principle that “justice delayed is justice denied” remains highly relevant in the Bangladeshi context.

5.2 Procedural Delays:

Civil proceedings frequently experience delays resulting from repeated adjournments, lengthy procedural requirements, and inefficient case management.

Common causes include:

Frequent requests for adjournment;

Delays in service of summons;

Absence of parties or witnesses;

Slow disposal of interlocutory applications;

Administrative inefficiencies.

Such delays undermine the effectiveness of judicial remedies and discourage citizens from seeking legal recourse.

5.3 Shortage of Judges and Judicial Resources:

The ratio of judges to population in Bangladesh remains relatively low compared to international standards.

Many courts face shortages of:

Judges;

Court staff;

Courtrooms;

Technological facilities;

Administrative support personnel.

These shortages place excessive burdens on judicial officers and contribute significantly to delays in case disposal.

5.5 High Cost of Litigation:

Litigation can be expensive, particularly for economically disadvantaged individuals. Costs may include:

Court fees;

Lawyer's fees;

Documentation expenses;

Transportation costs;

Miscellaneous procedural expenses.

As a result, many citizens are unable to pursue legitimate claims despite possessing valid legal rights.

5.6 Complexity of Legal Procedures:

The procedural framework governing civil litigation is often complex and difficult for ordinary citizens to understand.

Lengthy pleadings, technical procedural requirements, and complicated evidentiary rules may discourage litigants and increase dependence on legal representation.

Simplification of procedures remains an important objective for judicial reform.

5.7 Corruption and Lack of Transparency:

Public perception of corruption within judicial and administrative institutions can undermine confidence in the justice system.

Although judicial independence is constitutionally protected, allegations relating to corruption, undue influence, and procedural irregularities continue to affect public trust.

Transparency and accountability are therefore essential for strengthening confidence in civil justice institutions.

5.8 Limited Access to Justice:

Many citizens, particularly those living in rural areas, face difficulties accessing courts due to:

Financial constraints;

Geographic distance;

Lack of legal awareness;

Limited availability of legal assistance.

These barriers disproportionately affect vulnerable populations and may prevent effective enforcement of legal rights.

5.9 Inadequate Technological Infrastructure:

The modernization of court administration remains incomplete. Many courts continue to rely heavily on paper-based systems and manual record management.

Insufficient technological infrastructure contributes to inefficiency and delays.

The adoption of digital case management systems could significantly improve court performance.

Chapter 6

Findings, Recommendations & Reform Proposals

6.1 Findings:

Based on the analysis conducted in this thesis, several important findings emerge.

Positive Findings:

- a) The Constitution provides a strong legal foundation for judicial independence.
- b) Civil courts play a vital role in protecting legal rights and enforcing obligations.
- c) The appellate structure promotes accountability and consistency in judicial decision-making.
- d) ADR mechanisms have enhanced opportunities for faster dispute resolution.
- e) Legal aid initiatives have improved access to justice for disadvantaged citizens.

Negative Findings:

- a) Excessive case backlogs remain a major obstacle.
- b) Procedural delays significantly affect judicial efficiency.
- c) Shortages of judges and court personnel hinder effective administration.
- d) Litigation costs remain prohibitive for many citizens.
- e) Technological modernization remains inadequate.

6.2 Recommendations:

6.2.1 Increase the Number of Judges:

The government should appoint additional judges to reduce workload and accelerate case disposal.

6.2.2 Strengthen Court Infrastructure:

Investment should be made in:

Court buildings;

Digital facilities;

Administrative support systems;

Modern record management technologies.

6.2.3 Expand Alternative Dispute Resolution:

ADR mechanisms such as mediation and arbitration should be promoted to reduce pressure on courts.

6.2.4 Improve Case Management:

Effective case management systems should be introduced to:

Reduce unnecessary adjournments;

Monitor case progress;

Improve scheduling efficiency.

6.2.5 Expand Legal Aid Services:

The Legal Aid Services Act 2000 should be implemented more effectively to ensure broader access to justice.

6.2.6 Digitalization of the Judiciary:

The judiciary should adopt:

E-filing systems;

Online case tracking;

Virtual hearings;

Electronic record management.

Digital transformation can significantly improve efficiency and transparency.

6.2.7 Enhance Judicial Training:

Regular training programs should be provided for judges and court personnel regarding:

Emerging legal issues;

Technological innovations;

Case management techniques.

6.2.8 Strengthen Judicial Accountability:

Mechanisms promoting transparency and accountability should be strengthened while preserving judicial independence.

Chapter 7

Conclusion

Conclusion:

The civil justice system is an indispensable institution within the constitutional and legal framework of Bangladesh. It protects legal rights, enforces obligations, resolves disputes, maintains social order, and promotes economic development. Through judicial adjudication, citizens are able to seek remedies against violations of their rights and interests.

The Constitution provides a strong foundation for judicial independence and the rule of law. Civil courts, supported by statutory frameworks such as the Civil Courts Act 1887 and the Code of Civil Procedure 1908, serve as essential mechanisms for the administration of justice.

This thesis has demonstrated that the civil justice system contributes significantly to:

Protection of legal rights;

Enforcement of contracts;

Protection of property rights;

Promotion of economic growth;

Access to justice;

Social stability;

Good governance.

However, the system also faces serious challenges including case backlogs, procedural delays, inadequate judicial resources, and limited technological infrastructure.

Comprehensive reforms involving judicial expansion, digitalization, ADR promotion, legal aid enhancement, and improved case management are necessary to strengthen the effectiveness of the civil justice system.

Ultimately, a strong and efficient civil justice system is essential for safeguarding democracy, upholding the rule of law, and ensuring sustainable national development in Bangladesh.

Table of Cases

- i) Anwar Hossain Chowdhury v Bangladesh (1989) 41 DLR (AD) 165.
- ii) Bangladesh Italian Marble Works Ltd v Government of Bangladesh (2010) 62 DLR (AD) 298.
- iii) Secretary, Ministry of Finance v Masdar Hossain (1999) 52 DLR (AD) 82.

Table of Legislation

- i) Artha Rin Adalat Act 2003.
- ii) Civil Courts Act 1887.
- iii) Code of Civil Procedure 1908.
- iv) Constitution of the People's Republic of Bangladesh 1972.
- v) Environment Court Act 2010.
- vi) Family Courts Ordinance 1985.
- vii) Legal Aid Services Act 2000.
- viii) Table of Legislation
- ix) Artha Rin Adalat Act 2003.
- x) Civil Courts Act 1887.
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- xii) Constitution of the People's Republic of Bangladesh 1972.
- xiii) Environment Court Act 2010.
- xiv) Family Courts Ordinance 1985.
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