

Problems and Prospects of Mobile Court in Bangladesh: A Socio-Legal Study

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Abstract

This study attempts to highlight the existing mobile court system in Bangladesh. It has been attempted to highlight the legal framework regarding mobile court in Bangladesh. The journey of mobile court, its success, its drawbacks and public utility has been focused in this study. The trial system of mobile court, its justification, its bindingness and achievement has been focused in this study. Role of mobile court is very significant in the context of Bangladesh. The application of mobile court in different fields is strongly visible. Now the question arises, whether the people appreciate the mobile court or not? So many leading cases have been solved by applying mobile court. So, this study will try to show in which procedure mobile court can be applied for the beneficial interest as a speedier tool?

Keywords: Mobile Court, Problems, Prospects and Socio-Legal.

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1.1 INTRODUCTION

Mobile court is a special organ of a government to prevent social crimes. Government gives vast power to executive magistrate to operate that special court. The executive magistrate of the mobile court takes cognizance of a crime and tries the case in the place the offence is committed. It is frequently utilised to improve access to justice and swiftly handle minor offences in isolated or neglected locations. The utilisation of mobile courts facilitates accessibility and efficiency by decreasing the need for people to make lengthy trips to attend court sessions. They are also essential in strengthening the rule of law and resolving legal concerns in marginalised populations.

1.2 Background of the Study

In Bangladesh, a mobile court was established in 2007 to effectively handle minor offences, code breaches, and legal services for underserved populations. Since then, mobile courts have developed into an important tool in Bangladesh's judicial system, helping to enhance both the rule of law's enforcement and accessibility to justice. But there was no specific legislation regarding mobile courts before 2009. A magistrate may try a case in the location where the offence was committed under certain provisions of the

CrPC. The Mobile Court Law contains information about mobile courts.¹ This study mainly focused on the Mobile Court, its activities, procedure, rules regulations regarding the mobile court operating management with success of the Mobile Court and beside the success the problems of the Mobile Court.

1.3 Objective of the Study

The main objective of the study is stated below:

- To elaborate the concept about the Mobile Court.
- To find out laws and rules regarding the Mobile Court.
- To find out the Mobile Court management system.
- To show the success of the Mobile Court.
- To find out the problems of The Mobile Court.
- To mention the trial system of Mobile Court.

1.4 RESEARCH METHODOLOGY

Analytical methodology is applied in this study. Methodology ensures rigor, reliability, and validity in the research process. This study is based on primary sources as Acts, Rules and regulations, Guidelines and secondary sources as Newspaper, Article etc. This study focused on

¹ The Mobile Court Act, 2009

Mobile Court. This study is an socio legal study which explore it activities and laws in social phenomenon.

1.5 Background of Mobile court

For maintaining the rules regulations and controlling the conduct of a person towards the laws the mobile court makes a valuable part. The mobile court makes instant action for a crime and gives the necessary punishment. For conducting the mobile court for the first time Mobile Courts Ordinance, 2007 (Ordinance No. 31 of 2007) was enacted in 2007. But the ordinance was not adopted the first session of the Ninth National Parliament. For that it was subsequently enacted for the same reason on this purpose. The Mobile Courts Act, 2009 (Act No. 59 of 2009) was enacted and the Mobile Courts Ordinance, 2009 was repealed. Since the enactment of the Mobile Court Act, Executive Magistrates operates the mobile court and playing a vital role for maintaining the laws and order and also takes action for preventing the social crimes by rising the appliance of various laws which is included in The Mobile Court Ordinance, 2009. It makes remarkable sign for preventing the sexual harassment which is a major problem and a crime in this present situation. Mobile court also takes place to protect the environment and the most important activity of this court is to prevent the adulteration of food and build an anti-adulteration campaigns for this purpose.²

1.6 Establishment of Mobile Court

For some special reasons the Mobile court is established under The Mobile Court Act, 2009. For Maintaining public safety and law and order by promptly taking cognizance of crimes and imposing penalties on the spot, prevent crime effectively and efficiently ,establishing public order, reducing crime and establishing the rule of law through public punishmenh the Mobile court is established. When an empowered District Magistrate, while conducting law enforcement and crime prevention activities, commits or discloses any offense which is Scheduled in The Mobile Court Act, 2009, which is triable only by a Judicial Magistrate or a Metropolitan Magistrate, he shall immediately take cognizance of the offense on the spot and charge the accused person, on confession. , on conviction, may impose the penalty prescribed in this Act.³ Its established for the scope to submit citizen complaints to Executive Magistracy directly. Capacity to conduct Mobile Courts competently and instantly with the use of ICT based equipment. For the establishment of the Court it makes a Chance to verify information of intermittent crimes and habitual offender from any place. It gives facility to deliver Duplicate copies of digitally preserved Order Sheets to citizens easily and instantly. Attuned to monitor

the performance of Mobile Courts by the higher authority.⁴

1.7 Development of Mobile Court

Development of mobile Court is significant. It control the conduct of people for maintaining the laws and order by taking the cognizance of a crime in on spot and giving the punishment which is fit for the crime according to the laws. Mobile courts travel to the scene of the occurrence in addition to providing the complete range of remedial services, such as the magistrate, prosecution, police, etc. If the accused admits to their misdeeds, they can face prosecution in a matter of hours. Within the framework of the mobile court, cognizance, trial, and complaint filing and prosecution are the three primary steps in resolving a criminal case in a single unit. These elements are provided by executive magistrates with restricted authority to impose penalties under the Mobile Courts Act, 2009, and everything takes place in an astoundingly brief period of time perhaps an hour or two. It also helps everyone else, including the overloaded judges in the criminal justice system, the police, and most importantly, the general public.⁵ It aims to increase the general effectiveness of the enactment of laws pertaining to social crimes (crimes listed in The Mobile Court Act, 2009 schedule) as well as drug-related crimes. By developing mobile courts, consumers were able to obtain justice against fraud of this kind. By using the Mobile Court service to register complaints with executive magistrates, many of these customers' rights may really be safeguarded.

1.8 Jurisdiction of Mobile Court

Mobile court is a special court and have a jurisdiction for adjudicate. The government may by written orders delegate to any Executive Magistrate in the whole country or any district or metropolitan area, and the District Magistrate to any Executive Magistrate in his territorial jurisdiction, the power to operate mobile courts for the purpose of maintaining law and order and carrying out crime prevention activities. The authorized magistrate can excute the court to prevent the crimes. For maintaining the rules and order if any offence the scheduled of The Mobile Courts Act, 2009 which is triable only by the Judicial Magistrate or a Metropolitan Magistrate, is committed or disclosed before him, he may immediately take cognizance of the offense on the spot and convict the accused, on confession, and impose the punishment prescribed under this Act. Any offence which is scheduled under The Mobile Courts Act, 2009 will triable under this Act by the Mobile court unless unless otherwise specified in the said Act, the said offense shall be deemed to be triable by the court prescribed in the eighth column of the relevant Second

² The Mobile Court Guidelines, 2009

³ The Mobile Courts Act, 2009.

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https://www.ecourt.gov.bd/citizen_public_view/aboutm cms

⁵<https://www.thedailystar.net/perspective/mobile-courts-can-make-difference-1368808?amp>

Schedule to section 29 of the Code of Criminal Procedure and if the jurisdiction to try any such offense If the Metropolitan Magistrate and the Judicial Magistrate of the first, second or third class do not have, the Executive Magistrate or the District Magistrate conducting the Mobile Court under this Act shall not have jurisdiction to take cognizance and impose punishment under this Act, notwithstanding that the said offense is an offense under the Act specified in the Schedule. If the magistrate thinks the accused person committed such a crime which is so serious and it will be not appropriate of the punishment of fine, then he can file a case against him in regular way. If any such offense is committed or disclosed before the Executive Magistrate or District Magistrate while conducting the Mobile Court, which is triable by the Court of Session or any other higher or special Court or Tribunal, the Executive Magistrate or District Magistrate conducting the Mobile Court shall be concerned with the said offence. Instruct the officer-in-charge of the concerned police station to treat the complaint against the person as a statement.⁶ The Mobile Court Act, 2009 gives vast power to mobile court to try a case of those offence which is scheduled in the following Act. An aggrieved person is avail to find remedy against any conviction from the mobile court. By the mobile court magistrate have a power to give instant remedy on the spot of any crime which he deems fit for. The Mobile Courts Act, 2009 is a procedural law. Any section or subsection of this Act may appear to be consistent or inconsistent with any section or subsection of any other Act.

Section 3 is to clarify the matter and give precedence to this Act over other Acts. The Government can delegate the power of mobile courts in favor of any Executive Magistrate or District Magistrate throughout the country. Generally, the powers of Mobile Courts are delegated by the Government in favor of Executive Magistrates outside the jurisdiction of District Magistrates. In case it is necessary to delegate the power of any law included in the Schedule to the Mobile Court Act, 2009 in favor of any officer outside the jurisdiction of the District Magistrate under the BCS (Administration) cadre of various Ministries/ Departments or any organization under their purview at the field level, the form prescribed by the Cabinet Division of the concerned organization sends the proposal to the Ministry of Public Administration as per The Ministry of Public Administration fills the demand letter and prescribed form of the concerned organization and sends it to the Cabinet Department. The Cabinet Division informs the Ministry of Public Administration giving consent to confer powers under Section 5 of the Mobile Courts Act, 2009 in favor of the concerned Executive Magistrate belonging to the BCS (Administration) cadre, specifying the Scheduled Acts, specific jurisdiction and tenure. Then the Ministry of Public Administration delegated the power in favor of the

concerned Executive Magistrate belonging to the BCS (Administration) cadre. In doing the judgement, imprisonment for a term exceeding two years shall not be imposed under this Act, irrespective of the punishment prescribed by the relevant Act for the offence.⁷

1.9 Legal Framework of Mobile Court

Mobile court executes through the Mobile Court Act, 2009. Section 5 of the following act detect. The Government may, by written order, delegate to any Executive Magistrate in the whole country or any district or metropolitan area, and the District Magistrate to any Executive Magistrate in his territorial jurisdiction, the power to operate mobile courts for the purpose of maintaining law and order and carrying out crime prevention activities. Under section 6 authorized District Magistrate, while conducting law enforcement and crime prevention activities, commits or discloses any offense under the Scheduled Act, which is triable only by a Judicial Magistrate or a Metropolitan Magistrate, he shall immediately take cognizance of the offense on the spot and charge the accused person, on confession, on conviction, may impose the penalty prescribed in this Act. It also includes that if it appears to the Executive Magistrate or the District Magistrate conducting the Mobile Court, that the offense committed by the person who pleaded guilty is so serious that the punishment prescribed under this Act would not be appropriate punishment, he may impose the punishment on such person. If not, arrange to file a case against him regularly and if any such offense is committed or disclosed before the Executive Magistrate or District Magistrate while conducting the Mobile Court, which is triable by the Court of Session or any other higher or special Court or Tribunal, then the Executive Magistrate or District Magistrate conducting the Mobile Court shall be concerned with the said offence. Instruct the officer-in-charge of the concerned police station to treat the complaint against the person as a statement. Section 7 describe the procedure of mobile court. While conducting a mobile court under this Act, immediately after the cognizance of an offense against any person, the Executive Magistrate or the District Magistrate conducting the mobile court shall frame the summary charge in writing and read and explain it to the accused person and shall inquire whether the accused person admits the charge framed and if he does not accept, he will want to know the detailed explanation why he does not accept. If the accused admits the charge, his confession shall be recorded and the signature or, as the case may be, the signature of the accused and the signatures or, as the case may be, the tips of two witnesses present; And then the Executive Magistrate or the District Magistrate conducting the Mobile Court shall issue a written order imposing the appropriate penalty in his opinion and sign the said order. If the explanation given by the accused in defense denying the charge is satisfactory, the Executive Magistrate or District

⁶ The Mobile Court Act, 2009.

⁷ The Mobile Court Ordinance, 2009.

Magistrate presiding over the mobile court shall acquit him of the charge. If an accused under section 9 of the Mobile Court Act 2009 is found guilty on the spot and only fined is imposed, the fixed amount of said fine shall be immediately recoverable. If the fine imposed is not paid forthwith, the imprisonment imposed in default shall be effective immediately. Imprisonment without labor shall not exceed three months for failure to pay the fine promptly. If the entire amount of the fine is collected on behalf of the accused while serving the prison sentence, the accused will be immediately released from imprisonment. Failure to pay the fine under this section shall not disqualify the recovery of the fine due to partial or complete serving of the imprisonment imposed. Section 11 gives the power to the District Magistrates to administer. Mobile Courts under this Act and impose penalties in their respective territorial jurisdictions.⁸

2.0 Composition of Mobile Court

The mobile court designated a specific area in order to deliver perfect justice even faster and more easily. Compared to a typical summary trial, mobile courts operate much more quickly since the judge comes to the scene, captures the offender without delay, speaks with the accused, looks through the witnesses, completes the necessary paperwork, and issues a sentence right away. Experts or officials from related professions accompany the court to investigate whether the accused has engaged in any illegal activity. Information about any offence falling within the mobile court's purview originates from a number of sources. They are the common folks who are greatly assisting by giving information on the production of unauthorised or unlawful goods. Both print and electronic media have made a significant contribution in this area. They have consistently brought the issue to the attention of the broader public. The executive magistrate will preside over the proceedings.⁹ Trials in any particular jurisdiction will no longer be presided over by the executive magistrates. They will handle ad hoc, on-the-spot procedures anywhere in the nation and impose penalties. They are selected by the Public Service Commission. However, the executive magistrates' punishments are restricted to monetary fines and can only be imposed on confessing guilty parties. Later, the executive magistrates may file charges in accordance with Code of Criminal Procedure section 242. The case will be referred to the judicial magistrates for an investigation and trial in the event that an appeal is made against an executive magistrate's ruling. The accused may also appeal to the district and sessions judge under the Mobile Court Ordinance. Executive Magistrates cannot be sued; the Cabinet approves the Mobile Court Ordinance.¹⁰

⁸ The Mobile Court Act, 2009.

⁹ <https://bangladesh.justiceaudit.org/wp-content/uploads/2018/07/Role-of-Mobile-Courts-in-the-Enforcement-of-Laws-in-Bangladesh.pdf>

¹⁰ The Mobile Court Ordinance, 2007.

2.1 Role of Mobile Court in Bangladesh

Mobile court plays its role under The Mobile Court Act, 2009. It is found that multifaceted issues with the mobile court's early operation, legal foundation, logistical assistance, and acceptability by the general public and vested sector. Notwithstanding these complex acid tests, mobile courts operate in a unique and unique manner to safeguard and maintain consumer protection, good public health, a state of law and order, and eventually justice through the appropriate enforcement of related laws already in existence. It is imperative that we all do in-depth study and investigations to identify any gaps in the system so that the mobile court can operate to its full potential and have a solid socio-legal foundation.¹¹

A fundamental issue for Bangladesh's access to justice is the revolutionary shift that mobile courts bring about in the history of legal materialisation. The people's republic of Bangladesh's constitution, which is incredibly weak and frail, makes special mention of protecting and preserving public health in articles 18, 19 and 20. In the middle of this dreadful and perishing reality of life and the futility of justice, the mobile court presents a dazzling beacon of transparent and accountable law enforcement. Everyone knows that there is an issue with the foods we usually buy from the market. But before the continued operations of the mobile courts, we had no idea how tainted the food was. Mobile courts have done a very commendable job by revealing the situation in which unsuspecting consumers are tricked as well as the dishonest and unethical nature of our economic world. As a result, the mobile courts became more well-known. Within the framework of the mobile court, cognisance, trial, and complaint filing and prosecution are the three primary steps in resolving a criminal case in a single unit. These elements are provided by executive magistrates with restricted authority to impose penalties under the Mobile Courts Act, 2009. It also helps everyone else, including the overloaded judges in the criminal justice system, the police, and most importantly, the general public.¹² Ending pervasive legal infractions by numerous offenders in a particular region is the primary objective of mobile court's on-the-spot trial approach. It is a helpful tool for decreasing offences, which helps law enforcement maintain social order. This process also enables magistrates to oversee the activities of law enforcement organisations. Executive magistrates are currently holding mobile courts in a number of locations, the most popular of which are campaigns against food adulteration, environmental pollution, the use of unfair examination procedures in public, the capture of fish fry, the stockpiling of pharmaceuticals that have expired, and

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<https://www.banglajol.info/index.php/NUJL/article/view/18527>

¹² <https://www.thedailystar.net/perspective/mobile-courts-can-make-difference-1368808?amp>

similar issues.¹³ So the role of mobile court in Bangladesh is remarkable in various prospects.

2.2 People Perception about Mobile Court in Bangladesh

The Government may delegate to Executive Magistrate the power to operate Mobile Courts in the whole country or any district or metropolitan area. So the mobile court try a case so fast and people can communicate direct to the magistrate and filed a complained against the problem which he suffering. Mobile Court is a special court. Beside the remarkable success the mobile court have some good sight and drawbacks both in peoples perception. Mobile court is a fast trial system it serves justice within short period of time. Besides in our country the mobile courts serve a crucial purpose and ignore many procedures which have to follow in case of a trial like notice or hear from the accused regarding his defense but the mobile court ignores such for providing a quick and efficient trial, though it reduces the backlog the way through it conducts its function must be reformed. For example, by allowing a single individual to play the roles of the plaintiff as well witness, investigator, and much importantly a judge under the following Act gives too much power in the hands of the person who is in charge of the case. Therefore, it can be said that the Mobile Court Act of 2009 stands as flawed and unfair along it has some limitations.¹⁴ From the Mobile Court Act executive magistrate is empowered to take into cognizance and try offences instantly. The Act also provides remedy against conviction of any people. If someone feels wronged by the court's ruling, they have the option to appeal the verdict to the district magistrate. The petition may be sent to the additional district or the district magistrate may decide to handle it themselves. Under section 561A of the Code of Criminal Procedure, 1898, any aggrieved party may, once more, submit an application for the quashment with the Supreme Court's High Court Division, contesting the sessions judge's or additional sessions judge's decision, as applicable. The defendant in *Md. Asif Ahammed v. The State (2022)*¹⁵ filed an application with the High Court Division pursuant to section 561A of the Code of Criminal Procedure. The petitioner was determined to have been found guilty and sentenced by the mobile court without following the mandatory provisions of the Mobile Court Act, 2009. As a result, the court invalidated and set aside the executive magistrate's judgement. Additionally, the aggrieved party may, in accordance with article 102 of the Bangladeshi Constitution, file a writ petition before the High Court Division to address any illegality or grave irregularity in the mobile court's proceedings. The Court

has the authority to issue any directives or orders that are necessary to ensure that any of the fundamental rights guaranteed by Part III of the Constitution are upheld. The petitioner was determined to have been found guilty and sentenced by the mobile court without following the mandatory provisions of the Mobile Court Act, 2009. As a result, the court invalidated and set aside the executive magistrate's judgement. Additionally, the aggrieved party may, in accordance with article 102 of the Bangladeshi Constitution, file a writ petition before the High Court Division to address any illegality or grave irregularity in the mobile court's proceedings. The Court has the authority to issue any directives or orders that are necessary to ensure that any of the fundamental rights guaranteed by Part III of the Constitution are upheld.¹⁶

2.3 Future Challenges of Mobile Court in Bangladesh

Despite their many benefits, mobile courts are not without challenges. Executive Magistrates can more effectively exercise their authority to uphold law and order and defend people's rights through the use of the Mobile Court. Conversely, the Executives' use of their judicial authority runs counter to the idea of the division of powers. The three main categories of state power are the legislative (ability to make laws), executive (ability to carry out executive orders), and judicial (ability to decide cases based on the application of laws). It is believed that these three powers should be divided among three different entities in order to prevent the State from exercising its powers in an authoritarian manner. In reality, nevertheless, it is neither desirable nor feasible to have a completely segregated government.¹⁷ Despite a few early setbacks, Mobile Court has been able to gain the confidence of the general public. Everyone is very grateful for its function in preventing the adulteration of food and drugs. Since then, the expectations of the general public for mobile courts have been rising geometrically every day. However, the question of who should operate the Mobile Court, the Executive or the Judiciary remained open for debate.¹⁸ It will be the most challenging part of Mobile Court in Bangladesh. There is no end to the debate about the mobile court run by the Executive Magistrate. Although appreciated in most of the works, the mobile court has been controversial and criticized in several cases in recent times. Because teachers, doctors, journalists, lawyers, government officials and even judge court employees could not pass the fire of the mobile court. Magistrates deployed in mobile courts continue to exercise undue powers one after the other. As if no one is watching. Sometimes the provisions of the Mobile Court Act are not followed while exercising the power. Basically, the mobile court is currently running on the

¹³ <https://www.newagebd.net/article/53014/mobile-courts-in-maintaining-order>

¹⁴ <https://juralacuity.com/mobile-court-act-2009-limitations/>

¹⁵ *Md. Asif Ahammed vs The State (2022) Criminal Misc 7976/2022*

¹⁶ <https://www.thedailystar.net/law-our-rights/news/remedy-against-conviction-mobile-courts-3301921>

¹⁷ *Bangladesh v. Md. Aftabuddin (2010) 39 CLC (HCD)*

¹⁸ <https://bdlawdigest.org/mobile-court-conflict-of-interest-between-the-judiciary-and-the-executive.html>

suspension of the Appellate Division of the Supreme Court. Conducting trials by mobile courts beyond the control of the Supreme Court is contrary to the independence and separation of the judiciary. So we have to figure out how the mobile court can work under the supervision and control of the Supreme Court. The misuse of mobile courts and the arbitrariness of executive magistrates have been proved time and again by the orders of the High Court. If the administration is not able to bring the mobile court in order then its future cannot be imagined.¹⁹ It will be the biggest challenge of Mobile Court to Conduct the Mobile court through the proper law.

2.4 Limitations of Mobile Court in Bangladesh

The Mobile Court Act, 2009 pronounce judgment only base on confession by the accused. This may happen if the offenders who are aware of the limitations of the mobile court do not confess to their offenses. It should be noted, however, that the Act does provide certain restrictions on the length of sentence, stating that it cannot be more than two years. But what occurs if the crime is severe? Some Dinajpur bakery owners have also claimed that the mobile court lacks the necessary equipment to determine adulteration in a writ suit challenging specific sections of the Mobile Court Act, 2009 and requesting an HC order to enact a policy of keeping food experts and necessary food testing equipment with the mobile court. There is a considerable deal of dispute regarding constitutional law and how the Mobile Court Act, 2009 affects the Majdar Hossain case-established authority differential between the judiciary and executive departments. While many experts contend that the system allows officers to act arbitrarily in the absence of immediate legal advice in cases where accused people frequently appear to be victims of the situation, the positive view acknowledged that the mobile court system expeditiously resolves some offences. Furthermore, Everyone the right to a fair trial by a competent court and the prohibition against using evidence against them.²⁰ However, the only way to punish an accused person under mobile court law is if the accused confesses on their own, in which case it is unconstitutional. A well-established natural justice concept states that each individual must have the equal opportunity to defend themselves before punishment or to be heard before punishment and be permitted to designate legal representation for this purpose. But the Mobile Court Act of 2009 does not allow for self-defense during a trial or allow for a delay in the appointment of

counsel, which is a serious breach of the fundamental rules of the legal system.²¹ Even though there are mobile courts all over the world, they are only run by executive authorities in Bangladesh. The 2009 Mobile Court Act's regulations, which governed how executive magistrates conducted mobile courts, were repealed by the High Court. The Appellate Division is now handling the case. However, the 1972 constitution is still being harmed by the law. Offenders who are aware of the mobile court's limits refuse to acknowledge their transgressions and cannot be included to the legal database. Common people suffer as a result, and they are denied access to prompt justice.²²

2.5 Mobile Court Conducted by BRTA

Overspeeding and overloading causes fatal accident. Mobile Court conducted by BRTA (Bangladesh Road Transport Authority) for bid to check the plying of illegal transport and their over speeding and overloading. The BRTA has observed that the number of illegal transport, including nosimon-korimon and three-wheelers, has increased on highways and roads across the country, leading to road accidents.²³ In order to reduce traffic accidents and enforce discipline on the roads, the Bangladesh Road Transport Authority (BRTA) has directed its circle office assistant directors (engineers) to hold daily mobile tribunals against unlicensed vehicles with the assistance of the district administrations. It is being brought to the attention of the appropriate authorities that the movement of unlawful Nosimon-Karimon (local vehicles), three-wheelers, unfit motor vehicles, and motorbikes without driving licences on highways has resulted in a rise in the frequency of road accidents in recent times. Regular mobile court operations and increased traffic police drives can help lower the number of traffic accidents. To lower traffic accidents, the assistant director of the circle office (an engineer) will get in touch with the district administration and take the appropriate action to run mobile courts every day.²⁴ Two brokers were given varying prison sentences by a mobile court of the Bangladesh Road Transport Authority (BRTA) in Chattogram on October 3, 2018, for acting as intermediaries and stealing money from service seekers at the BRTA. The driver of a pickup truck was also given a 15 days jail sentence by the same court for driving at Oxygen crossroads without the required paperwork.²⁵

¹⁹ <https://www.amarsangbad.com/m/special-report/news/221094>

²⁰ Article 35(3) of the Constitution of the Peoples Republic of Bangladesh

²¹ <https://juralacuity.com/mobile-court-act-2009-limitations>

²² <https://www.thedailystar.net/city/news/running-mobile-courts-executive-magistrates-unconstitutional-1770487?amp>

²³ <https://thefinancialexpress.com.bd/national/brta-asks-all-to-conduct-mobile-court-every-day>

²⁴ <https://www.tbsnews.net/bangladesh/transport/brta-operate-regular-mobile-courts-against-illegal-vehicles-831411>

²⁵ <https://www.thedailystar.net/city/news/brta-mobile-court-jails-two-brokers-1641901>

2.6 Mobile Court to Prevent Food Adulteration

A number of provisions are included in the Mobile Court Act, 2009 to guarantee that food adulteration-related offences are effectively prevented in Bangladesh. Currently, food makers in Bangladesh are subject to financial penalties enforced by Executive Magistrates operating under Mobile Courts, which are wholly criminal in nature. The police, a Sanitary Inspector (SI), a BSTI Inspector, an Executive Magistrate from an upazila, district, or city corporation, and an Executive Magistrate are the principal leaders of Mobile Court. According to the Act, the Magistrate may choose to file additional charges against an offender if their specific offence is so heinous that the fine allowed by the Act would not be adequate. If an offence is to be tried by any Court or tribunal higher than the Court of Sessions, an Executive Magistrate may, in accordance with section 6(5) of the Act, direct the Officer-in-Charge of the relevant police station to file a First Information Report (FIR) against a specific offender. Once more, section 8 states that the Mobile Court is not permitted to impose a sentence of more than two years in jail. However, because there aren't enough magistrates in Bangladesh, Mobile Court isn't run effectively.²⁶ The Dhaka North City Corporation's (DNCC) mobile courts will launch an initiative to prosecute adulterators throughout each of its ten zones. Maintaining cleanliness in hotels and restaurants and ensuring food quality are essential. It guarantees the safety of the food from street food vendors as well as hotels and restaurants. Additionally, DNCC will endeavour to guarantee street food quality. They have made the decision to give 100 food cart licences, with the third gender community and those in special needs receiving preference.²⁷ To guarantee the healthful development of the next generation, they must make it abundantly evident that they want to protect the country from tainted and inferior food. The wholesome mental development of future citizens will be determined by their healthy physical growth.²⁸

2.7 Mobile Court for Removing Illegal Construction

In order to seize and sell off illegal building material discovered on the main roads and pavements of ten Dhaka North City Corporation (DNCC) regions, raids and mobile courts have been conducted

concurrently as of May 15, 2024. The construction material was eventually sold at fast auctions after builders were penalised by mobile courts for storing it on the pavement, Gulshan 86, 87, 67 and the Banani region main road.³² auctions were conducted in the course of this campaign, yielding a total of 13 lakh 8 thousand 590 taka in revenue. An extra 6 lakh 45 thousand taka were obtained through fines. Additionally, 1,200 unauthorised buildings, stores, and sheds were taken down.²⁹ In order to combat dust pollution, mobile courts push back against haphazard building.³⁰ On September 7, 2020, the DNCC held an auction and mobile courts to remove unauthorised buildings from its streets and sidewalks. On the city's sidewalks and streets are construction materials, temporary and permanent stores, or other infrastructures that are auctioned off immediately.³¹

2.8 Mobile Court to Save the Buriganga River

River polluters were penalised a total of Tk.116.76 crore by DoE (Department of Environment) led mobile tribunals between January 2010 and May 2019.³² The DoE ran a mobile court in response to the HC's January 23, 2014, judgement, and penalised the industries Tk 1.04 crore. The industry owners subsequently petitioned the HC for a stay of its order. The High Court's ruling to stop collecting fines from industries that have been dumping waste into rivers and endangering their ecosystem was delayed by the Supreme Court.³³ Experts claim that if untreated sewage and waste are not dumped into the river and any waste that is already on the riverbed is effectively removed, the Buriganga may be spared.³⁴

2.9 Mobile Court in Anti-mosquito Drive

Rajshahi City Corporation has conducted a mobile court to prevent dengue and destroy breeding grounds of Aedes mosquitoes in Rajshahi city. At that time, the mobile court fined two companies Tk 20,000 for finding Aedes mosquitoes and larvae. Nagar Bhaban to Station Bhangri Patti, Padma Residential, Upabhadra, Darikharbana Subshahar Road and back to Nagar Bhaban, various institutions and houses were raided on (July 15, 2023). At that time, Ad Deen Properties and Babul Filling Station of Padma residential area were fined Tk 10,000 and Tk 20,000 each under Section 269 of the Penal Code-1860 due to the presence of Aedes

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<https://societyandchange.com/uploads/1650424420.pdf>

²⁷<https://www.thedailystar.net/news/bangladesh/governance/news/dncc-run-mobile-courts-against-food-adulteration-mayor-2989726?amp>

²⁸ <https://thefinancialexpress.com.bd/views/to-be-on-the-road-to-food-safety-1643906336>

²⁹<https://www.tbsnews.net/bangladesh/urbanisation/dnc-c-starts-auctioning-illegal-construction-material-roads-129637?amp>

³⁰<https://www.thedailystar.net/environment/mobile-court-drive-unplanned-construction-fight-dust-pollution-in-bangladesh-1834696?amp>

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<https://www.dhakatribune.com/amp/bangladesh/dhaka/221933/dncc-to-launch-drive-to-evict-illegal-structures#origin>

³² <https://www.tbsnews.net/environment/saving-buriganga-farce?amp>

³³ <https://www.thedailystar.net/city/doe-collect-tk-1cr-14-industries-damaging-buriganga-1277317?amp>

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<https://www.dhakatribune.com/amp/bangladesh/dhaka/223407/who-will-save-the-buriganga>

mosquitoes and mosquito larvae. The appointed executive magistrates have received directions from DSCC Chief Executive Officer Mizanur Rahman regarding different matters related to eliminating dengue fever. In accordance with legal guidelines, mobile courts were used to eradicate Aedes mosquito breeding places.³⁵ Mosquito larvae were typically discovered in standing water beneath under-construction buildings and in residential areas. In order to stop the spread of the dengue virus, mobile court drives were carried out to eliminate these possible Aedes mosquito breeding grounds. Thus, the Mobile Court was established on June 15, 2024, with the goal of containing dengue.³⁶

3.0 FINDINGS

The fundamental issue with mobile courts in Bangladesh is a perceived lack of openness and due process. Critics contend that these courts, which work on-the-spot to provide quick justice, may occasionally undermine fairness and legal requirements. There have been worries about possible abuses of power and violations of human rights. Furthermore, there is some controversy concerning the efficiency of these courts in resolving structural flaws within the justice system. Besides these there are some findings stated below:

- a) The procedure of trial of the Mobile Court is not sufficient for fair trial system.
- b) The executive magistrate have exercised powers without having their jurisdictions.
- c) Sometimes the magistrate arbitrary impose conviction to any person without proper evidence.
- d) There is no witness taking system in the Mobile Court.
- e) Mobile Court leads to a challenge in maintaining the integrity of each branch's of Government and avoiding potential abuses of power.
- f) The executive magistrates can misusing their powers for personal interests.
- g) The rule of law and human rights can be violated by the trial system of Mobile Court.

3.1 RECOMMENDATIONS

After considering the findings the following recommendations can be considered:

- a) Executive magistrate should be replaced by judicial magistrate for removing the confliction of separation of power.
- b) To maintain transparency throughout the trial process, from arrest to verdict, to build trust in the system. This includes publicly announcing trial dates, allowing media coverage, and providing clear information on legal rights.
- c) The government should provide an authority for monitor fair trial if there rised any allegation of prejudice and accountability of magistrates.

3.2 CONCLUSION

In conclusion it must to state that the Mobile court is very much effective special arrangement of the Government. Considering all the problems, by bringing justice closer to isolated and marginalised communities, mobile courts guarantee that legal services are available to everybody. Mobile courts expedite courtroom procedures, cutting down on backlogs and providing prompt justice a critical service, particularly in places where the legal system is overburdened. Mobile courts can reduce transportation and court administration expenses for both individuals and the government by removing the need for people to travel great distances in order to access the courts. Delivery of justice can be made more individually with the use of mobile courts, which can be customised to meet particular local requirements and concerns. The mobile court brings about a dramatic shift in the way laws are enforced in the nation by providing on-the-spot, timely judgements that restore public confidence in the legal system. But it's imperative to remember that mobile courts are merely a fragmented and ad hoc solution within the current chaotic framework of law and order; they are neither a replacement for traditional courts nor a comprehensive solution to enforcing the law.

³⁵ <https://www.tbsnews.net/bangladesh/18-mobile-courts-be-conducted-tomorrow-prevent-dengue-outbreak-651406?amp>

³⁶ <https://www.bssnews.net/news/126987>