

Opening Remarks

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This regional workshop for strengthening the criminal justice system is very important for the countries of South Asia, especially for Bangladesh, India, and Pakistan. A sound and effective judicial system will ensure rule of law and good governance in a country. Admittedly, the present criminal justice delivery system of Bangladesh is so far not satisfactory and, as such, is undergoing a series of reformative measures. It is in the context of these efforts that this regional conference can be of great benefit to us, as well as to India and Pakistan, in providing a forum for the exchange of experiences and views in improving the judicial and criminal prosecuting systems in our respective countries.

As far as Bangladesh is concerned, our criminal justice system suffers from two major weaknesses. The first weakness pertains to investigation—the process, rules of procedure, and the investigator. A well-carried out investigation is crucial to the success of a prosecution. The rate of conviction in Bangladesh is currently below 15% largely because our investigation system is very poor. Investigation is conducted by the police, who lack the appropriate training for making a good investigation, which requires specialized skills as well as a large amount of time to complete. As it is, the police are already saddled with their regular functions of maintaining law and order in their respective areas. Assigning them criminal cases to investigate in addition to their regular functions will result in neglect of either the case investigation or their regular functions. Thus, the Ministry of Home Affairs is now looking at initially developing an independent investigation cell and eventually an independent investi-

gation department to deal with investigations exclusively. This experiment has begun in 40 (out of 370) pilot police stations where a number of police officers have been assigned solely to do investigation work. Needless to say, this effort on the part of the Ministry of Home Affairs is only the beginning of a reform process. A continuous and meaningful cooperation between the Ministry of Home Affairs and the Ministry of Law, which has control and supervision over the public prosecution system, is required. It bears emphasizing that investigation and prosecution should be an integrated arrangement where the investigation officer and the public prosecutor cooperate to build a strong case. This is not to say, however, that these two agencies must be merged. On the contrary, they should remain independent of each other so that there is a system of check and balance between them.

In other countries, an independent investigation department or a strong public prosecution system would screen cases prior to filing in court. In Bangladesh, there is no screening system as such. Almost every case is filed in court, whether evidence is sufficient or not. Nobody has been given the power to determine which cases should be pursued to trial, which is probably one of the reasons the rate of conviction is low. An agency authorized to decide which cases should be pursued and which cases should be dismissed is therefore necessary. The agency should be in-



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dependent, credible, impartial, and competent to exercise this authority judiciously, objectively, and fairly. Obviously, it should be separate from the agency that conducts the investigation. In this sense, the independence of the investigating agency and the public prosecutorial agency is essential.

The other weakness of our criminal justice system pertains to our disintegrated public prosecution system. Bangladesh has no permanent public prosecutors. Every political government appoints its own political allies in the public prosecutorial service to serve at its pleasure and only while its term lasts. As the appointment of public prosecutors is political, criteria and qualifications are not specified. Further, the ad hoc nature of their appointment prevents continuity in service and accountability. Therefore, there is no motivation and commitment on their part because the only consideration of their appointment is membership in the same party as the ruling administration. In the same vein, the ruling admin-

istration has little motivation to provide training and facilities to the temporarily appointed public prosecutors. Clearly, this arrangement has deleterious effects on the entire prosecution system. As an initial step to address these problems, we have prepared a law to introduce a permanent attorney service in Bangladesh. The public prosecutors will be recruited purely on merit basis after passing a national examination like that taken by other civil servants. They will be distributed to the various courts and act as legal advisers in the different ministries. As permanent appointees, they will be made accountable in the performance of their duties. To improve their skills and competence, public prosecutors will be required to undergo training to build expertise in emerging specialized areas such as maritime law, environment law, and terrorism, among others, and be effective legal advisers to courts and executive departments. These are only some of the efforts that Bangladesh is currently undertaking to improve its prosecution system. Certainly, more is left to be done and the experiences of India and Pakistan in this regard would be of enormous value to Bangladesh in the same way that we hope you would also benefit from the experiences of Bangladesh in this area.

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