LAW REFORM

Analysing the 2025 Amendments to the CrPC

Fixing 60 working days for submitting the police investigation report under the newly inserted section 173B sounds promising. Extension is allowed only in limited circumstances. Magistrates are now empowered to take actions against the investigators for causing unreasonable delay.

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The Code of Criminal Procedure 1898 (CrPC) has been the cornerstone of our administration of criminal justice for more than a century. However, people have constantly criticised its provisions for granting excessive power to the police. Finally, the government of Bangladesh has enacted the Code of Criminal Procedure (Second Amendment) Ordinance, 2025. This write-up will analyse the changes brought by the amendments that are both ambitious and significant.

At the core of this amendment lies the restructuring of the provisions related to both the pre-arrest and post-arrest processes. The newly brought provisions (sections 46A--46E) put strict obligations on the officer or person making an arrest. Among the many significant changes are the requirements for police to carry visible identification while making arrests, disclose their identity when requested, and show official identification upon request.

Importantly, after making an arrest, preparing a written arrest memorandum is now compulsory. Not only will the arresting officer prepare such a memorandum, but they will also have it attested and countersigned by a family member or local witness (and if no such witness is available, the reasons thereof shall be recorded), as well as by the person arrested, unless refused by them. Furthermore, the arresting officer must provide the arrested person with a chance to reach out to their relatives and consult a lawyer, preferably within 12 hours from the time of arrest.

Moreover, if injuries on the body of the arrested are found or if they appear to be sick, certificates shall be furnished through immediate medical examination and treatment, preferably by a medical officer in a government hospital. However, if no such government medical officer is available nearby, the arresting officer can have the detainee examined and treated by doctors at private hospital as well, provided the doctor is a registered medical practitioner.

Similarly, the long-criticised section 54, notoriously known as a free license for police to arrest virtually anyone, has been brought under scrutiny and tightened by provisions that offer more clarity, justification, and accountability. Notably, these changes to section 54 were greatly influenced by our Apex Court's guidelines in Bangladesh v BLAST (2016) popularly known as the Rubel killing case. Most of the guidelines are addressed in this amendment, however, few guidelines from the original verdict by the HCD are left unaddressed- e.g., interrogating the accused in a room with glass walls within sight of the lawyer or relations, etc.

Furthermore, significant changes have been brought about regarding police remand. Previously, the period of police remand could be extended up to 15 days upon the application by the police. From now on, an accused cannot be held in police custody for more than 15 days in total. If further detention is considered necessary, only judicial custody can be permitted. Ordering medical examinations before and after such police custody to rule out by the Magistrate any torture or marks of injury is also made mandatory.

The controversial practice of "shown arrest" application has also been addressed comprehensively under section 167A, which now obliges the magistrate to entertain such applications only when certain requirements are met, such as--producing the accused before the magistrates with supporting documents and allowing the accused a chance of being heard.

Additionally, fixing 60 working days for submitting the police investigation report under the newly inserted section 173B sounds promising. Extension is allowed only in limited circumstances. Magistrates are now empowered to take actions against the investigators for causing unreasonable delay.

And lastly, the mobile court system, for its prompt actions, has long been acclaimed by the public. However, many demanded that it be conducted by judicial officers rather than executive officers. This aspiration is reflected in the newly inserted section 264A, which states that a summary trial for scheduled offenses can be conducted at 'any place' within the jurisdiction of the court, and the judgment can also be pronounced in the same session.

Other noteworthy reforms include digital-summons, online-bail bonds, protection of the victims and witnesses, abolishing whipping as punishment, rationalising fine in several sections to match current socio-economic realities.

While these reforms are comprehensive and ambitious, their success will greatly depend on their proper implementation. Police corruption and political influence may continue to remain as a major challenge to the implementation of these promises. Despite these concerns, it has to be admitted that the 2025 Amendment reflects the policymakers' genuine commitment towards ensuring justice for the litigants.

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LAW LETTER

Preferential gifts as a tool of injustice

HASAN BIN RAFIQ

The Muslim Personal Law (Shariat) Application Act 1937, through section 2, envisages Islamic Shariat to have its full application in certain cases, such as gifting properties when the parties are Muslims. Gifts are a form of transfer of property where the donor transfers the property to the donee in good faith without any consideration. However, at times, gifts may have adverse impacts on third parties, and that shall be the main focus of this write-up.

Imagine this hypothetical scenario: Al Amin's mother died a year ago. His father remarried and became the father of another son. After a few months, the father gifted almost all valuable properties to the second wife and the newborn son. With an infant sister, Amin is now living with fear and uncertainty. Similarly, suppose Mr Azad has four sons and two daughters. Out of no just reason, he gifted his most valuable property located in Gulshan to his sons, depriving his daughters and wife.

Such preferential gifting- especially gifting property to one's sons, depriving the daughters- is quite common in our society. Notably, Islamic Shariat (Quran and Sunnah) does not approve of arbitrary deprivation of heirs through such gifting, rather calls such practice injustice. For instance, in Sahih Bukhari, Hadith no 2587, Prophet Muhammad (PBUH) said, "Be afraid of Allah, and be just to your children" when he came to know that a preferential gift was made to a son by the father, unjustly depriving his other children.

Again, in Sahih Muslim, Hadith no 1623, Prophet Muhammad (PBUH) noted "I cannot bear witness to an injustice" in response to a preferential gift resulting in similar deprivation. Even within the tenets of the Hanbali school of thought, such gifts are deemed as void.

Significantly, academic arguments go "if it is found that a gift is not a mere gift and [is] made with motive to deprive some heirs then that should be declared void treating it as an evading device to Islamic Law Inheritance" (Professor Ekramul Haque, Dhaka University Law Journal, 2014, volume 25).

Our Constitution aims at realising a society free from exploitation. It provides economic and social justice for our people. At the core of our emergence, lies the values of equality, human dignity, and social justice. Article 28(1) bars the State from discriminating against its citizens on the ground of religion, amongst others. In my view, preferential gifting practices have the potential to be abused to the disadvantage of individuals who are vulnerable (including, for instance, women). For the sake of public policy, restrictions are often imposed at a reasonable extent against property rights (for example, to prevent monopoly). Similarly, this unfettered practice of preferential gifts should also be restricted.

Notably, the Indian Supreme Court declared triple talaq void. In the case of Shayara Bano v Union of India (2017), there were two important issues- whether the triple talaq was an essential religious practice in Islam and whether it violates fundamental rights. The court found that triple talaq comes under Talaq al Bida, which is not haram, but the Prophet (PBUH) himself did not practice or approve of it. In the context of unjust preferential gifting, our court can also adopt a similar view and treat it as void in order to prevent the injustice. Additionally, there can be one more safety test, which is to see whether the legislative reform made in this regard is compatible with Shariat as a whole.

Our aim to build a society free from economic exploitation is not possible, leaving such a tool of injustice that disproportionately impacts women as is. People have economic freedom, and this author does not seek interference with such freedom. It is the arbitrary use of such freedom that ought not to perpetuate injustice and deprivation.

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LAW WATCH

Law and our safety on the road

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Last year, within 9 months, road crashes claimed more than 5,500 lives, while 33.71% of these occurred on national highways. Besides death, many are left with life-changing injuries, often without any form of compensation or access to immediate medical care. According to findings by the Road Safety Foundation, in March 2025 alone, 587 accidents resulted in 1,231 people being injured. These are the tragedies that could often be prevented yet that continue to occur due to longstanding deadly loopholes within our road safety systems and the lack of adequate implementation of the Road Transport Act 2018.

First crucial area of concern in this regard is the medical responses. Timely emergency medical services and appropriate trauma responses can prevent rising death tolls and reduce the severity of injuries after accidents. In 2016, when a young bus helper was refused emergency services, which subsequently led to his untimely demise, a writ petition was filed by the Bangladesh Legal Aid and Services Trust (BLAST) and others. In 2018, the High Court Division of the Supreme Court of Bangladesh enunciated a set of guidelines on ensuring emergency medical services to the victims of road accidents and protecting "Good Samaritans".

The court instructed all government and private hospitals and clinics to ensure emergency medical services for road accident victims, discounting the legal complications or their financial abilities. The court directed all public and private hospitals as well as clinics to have infrastructural support for an emergency department, including adequate manpower, machinery, and ambulance services for the injured victims. Lastly, the court advised the Ministry of Health and Family Planning to publish the guidelines through a gazette notification and thereby build awareness among the masses. Despite such strong guidelines, till now there is no unified emergency response system. The ambulances that are available are often poorly equipped, slow to arrive, and with the guidelines not yet being published by the concerned ministry, hospital authorities still remain unaware of the High Court's directives.

Another important area is remedying the victims. Notably, the compensation for victims are currently regulated by the Road Transport Act 2018 (replacing the Motor Vehicles Ordinance 1983). The law focuses on transport fitness, drivers' working hours, the role of assistants, and the allocation of responsibilities in both road management and accidents. Instead of holding the owner solely responsible to pay the compensation, it establishes a financial fund through government grants, fines obtained under the Act, annual contribution of vehicle owners and donation from motor vehicle owners' and workers' associations. However, the process of calculating such aid still remains ambiguous. There is no established scheme to assess payable amounts based on the severity of injuries. Although compensation is mentioned in cases of death, the law does not set clear standards for what constitutes an appropriate amount, and in many instances, the sums offered appear rather arbitrary and grossly inadequate. This lack of clarity leaves victims and their families without a reliable means of redress.

Finally, there are drivers who are an important stakeholder, yet whose rights are often overlooked. According to section 39 of the Road Transport Act 2018, the government may, by gazette notification and in line with the Bangladesh Labour Act 2006, fix the working hours and rest periods for drivers, conductors, and helper-cum-cleaners of transport vehicles, which employers and workers must comply with. However, due to unsafe road conditions, many work 12 to 18 hours within an unregulated "no work, no pay" scheme. In a system where drivers are paid per trip and forced to meet harsh deadlines for pick-up and drop-off, their labour rights and mental health have long been overlooked. As a result, fatigue, stress, and risky driving practices continue to often result in fatal accidents on our roads.

On 13 August 2011, a highway crash claimed the lives of Tareque Masud, a celebrated filmmaker, and Mishuk Munier, a respected Dhaka University faculty member. Fourteen years have passed since that day, and their families have endured a prolonged legal battle. It has been seven years since the High Court Division delivered its verdict in their compensation claim, yet the appeal before the Appellate Division remains unheard, leaving justice in limbo. To prevent such tragedies and the prolonged suffering that follows, the health ministry must urgently implement clear guidelines for emergency medical services, alongside legal protections for "Good Samaritans," supported by a nationwide unified emergency response system, as suggested by the apex court in its judgment. Equally vital would be to formulate a mechanism for awarding compensation to the victim and to specify the working hours for drivers and helpers, ensuring their well-being and fostering a culture of safety that can begin to reform the dangerous driving norms.

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