

Mobile Courts and Separation of Powers in Bangladesh: A Legal Analysis

Md. Josim Uddin^{1,*}, Arafat Hossen¹, Md. Tanzim Hossen Antor¹

¹Department of Law, European University of Bangladesh, Dhaka, Bangladesh

*Corresponding author: Md. Josim Uddin, email: josimuddin11b38@gmail.com

Received: December 10, 2025

Revised: April 1, 2026

Accepted: April 7, 2026

Abstract

As the use of mobile courts in Bangladesh increases, many important issues arise regarding compliance with the constitutional principle of separation of powers, especially related to potential overlaps between the executive and judicial branches. This article examines how legal powers go together as well as how mobile courts operate effectively within the South Asian context, with a specific focus on Bangladesh. By using a doctrinal and analytical research methodology to examine the relevant constitutional provisions, statutes, case law, and the operational/functional structure of the mobile courts from a legal perspective. It further analyzes their impact on judicial independence, executive control, and the protection of citizens' rights. Based on the research, mobile courts provide greater access to justice, and the ability to resolve disputes quickly, especially in rural areas of Bangladesh; however, operating mobile courts raises the possibility of consolidating executive authority and judicial authority, which will disrupt the balance of institutions within the government. In addition, the absence of meaningful regulation of the operation of mobile courts intensifies the concerns over due process and accountability. The contribution of this article will be to highlight the need for a stronger legal/institutional regulatory framework for mobile courts, in order to maintain the benefits, without violating the constitutional principle of separation of powers. Finally, this article proposes enhancing structural safeguards to promote judicial independence and so that the executive branch promotes democratic governance in Bangladesh.

Keywords: *Democratic values, judicial independence, principle of separation of powers & mobile courts.*

1. Introduction

The Mobile Courts of Bangladesh were established under the "Mobile Court Act of 2009" with the goal of providing quick and easy access to justice for people living in rural and disadvantaged communities. The Mobile Courts have successfully utilized the powers vested in Executive Magistrates to adjudicate and deliver

immediate decisions for minor offences committing by the users of the mobile court system through on-site hearings and decision-making power. Most of the academic research; that has been conducted on the Mobile Court system has taken a practical perspective on the benefits of mobile courts while providing little insight into the constitutional or legal

implications of the mobile court system. The delegation of judicial powers from the judiciary to the executive branch has not received much attention focusing on its implications for openness, impartiality, and independence, especially regarding the separation of powers and judicial independence.

Although mobile courts have proven to be effective, mobile courts create a structural divide between executive and judicial functions, thereby potentially undermining the constitutional safeguard of the fundamental principles of due process; thus, there is a need for a more robust legal framework that would balance efficiency with judicial independence and rule of law.

2. Research Questions

- a) Does the Mobile Court Act 2009 violate the constitutional doctrine of separation of powers in Bangladesh?
- b) To what extent does the exercise of judicial functions by executive magistrates affect judicial independence?
- c) What legal or institutional reforms are necessary to align mobile courts with constitutional principles while preserving their efficiency in justice delivery?

3. Literature Review

Existing scholarship on mobile courts and the separation of powers in Bangladesh can be broadly organized into three thematic areas: (i) theories of separation of powers, (ii) judicial independence in Bangladesh, and (iii) critiques of mobile courts.

First, classical and contemporary works on the theory of separation of powers provide the normative foundation for evaluating the legitimacy of combining executive and judicial functions. Scholars such as Ali Akkas Sarkar

[34] offer a comprehensive analysis of constitutional principles, human rights, and judicial doctrines, emphasizing the importance of institutional balance and accountability. However, such works remain largely theoretical and do not directly address the operational realities of mobile courts.

Second, literature on judicial independence in Bangladesh, including works by Islam Mahmudul [30], examines the structural and constitutional framework governing the judiciary. These studies highlight the significance of landmark decisions such as Masdar Hossain [3], which reinforced the separation between the judiciary and the executive. While these contributions clarify the constitutional position, they do not sufficiently engage with newer mechanisms like mobile courts that blur this separation in practice.

Third, scholarly discussions on fundamental rights and constitutional protections, such as Chowdhury Jashim Ali [35], analyze the scope of civil and political rights under the Constitution of Bangladesh. These works emphasize due process and access to constitutional remedies but offer limited critique of how mobile courts may affect these rights in real-world contexts.

More recent peer-reviewed studies such as Tushar [2], A. B. Tamanna [12], M. M. Hossain [13] have begun to assess the efficiency and accessibility of mobile courts, often praising their role in ensuring swift justice and reducing case backlog. However, these studies tend to adopt a descriptive or policy-oriented approach, with insufficient critical engagement regarding constitutional tensions, due process concerns, and the concentration of powers in executive magistrates.

Despite a growing body of literature, there remains a significant gap in integrated constitutional analysis that critically examines mobile courts through the lens of separation of powers, judicial independence, and fundamental rights simultaneously. Existing studies either focus on doctrinal theory without practical application or emphasize efficiency without addressing constitutional risks.

This article seeks to fill this gap by providing a critical, doctrinal evaluation of mobile courts in Bangladesh, identifying the constitutional tensions inherent in their operation, and contributing to the ongoing scholarly debate by proposing a more balanced legal framework.

4. Research Methodology

This article adopts a doctrinal legal analysis framework, focusing on a systematic examination of legal rules, principles, and their constitutional implications. The research is primarily based on authoritative legal sources, including: Statutes, particularly the Mobile Court Act 2009; Constitutional provisions of Bangladesh relating to separation of powers, judicial independence, and fundamental rights; Case law, including landmark decisions such as *Masdar Hossain v. Bangladesh* (1999) 52 DLR (AD) 82, to assess judicial interpretation of the separation of powers doctrine.

The article employs a critical analytical approach to evaluate how these legal sources interact in practice, especially regarding the delegation of judicial authority to executive magistrates. Where relevant, a limited comparative perspective is incorporated to contextualize Bangladesh's mobile court system within broader South Asian practices. This comparative approach is used selectively to highlight

structural similarities and differences, thereby strengthening the constitutional analysis.

5. The Meaning of Mobile Court

The adjective 'mobile' refers to the quality of being able to move or be carried from one place to another with ease. The word "court" usually designates an organization where disagreements and conflicts are discussed, heard, and settled in accordance with the law. Therefore, the phrase 'mobile court' describes a special arrangement of the court that is mobile rather than situated in an enclosed area. The ultimate goal of a mobile court is to ensure justice by adjudicating laws. Dr. Borhan Uddin Khan says that, "Mobile courts can be likened to a mobile phone, which is easily transportable and can be used to enforce laws as a supplementary and complementary maneuver of the court, as we comprehended" [1].

6. Legal Basis of Mobile Court

The term 'mobile court' is not a legal institution with a clear and defined legal framework. Nevertheless, the constitution obliges and commits the state to the development of mobile tribunals in order to achieve the ultimate objective of justice and public welfare. This is facilitated by a variety of irregular and dispersed legal traditions and legislative provisions [2]. We have discovered that there are numerous rulings worldwide, particularly in the Indian subcontinent, that are based on precedents that are pertinent to mobile tribunals/ There are no stringent regulations that mandate that trials be conducted in a confined space; rather, they may be conducted in the open area where the crime was committed [5].

In accordance with the previous judgment of 21 DLR 310, Zahirul Hoque maintains that, "the concerned empowered magistrate can conduct a

trial even in the tiny corner of jail through a formal declaration.” [6]. In the 1984 P.Cr.lj.273 (Kar.) case, it was observed that, “the parties were not entitled to or obligated to request a different trial location unless and until there was a violation of justice or frustration. At the magistrate’s discretion, the trial may commence at a location other than the courthouse in order to promote justice. Court proceedings are typically conducted in the courthouse, but they may be conducted in other locations under specific circumstances” [7].

7. Effectiveness of Mobile Court

The Mobile Court is regarded as an important element in improving enforcement in Bangladesh, playing an exemplary role in the promotion and protection of consumer rights, and in the stability of public health, the maintenance of the rule of law, and the administration of justice through the enforcement of existing legislation. The mobile court implements the principles of transparency and accountability. Its primary functions encompass combating adulteration, dismantling illicit activities, compiling regional data, conserving the environment, and ensuring safe transportation [8]. For example, during the period 1995-2005, the Water Supply and Sewerage Authority (WASA) magistrate has initiated 83 cases based on WASA Act -1963 imposing fine amounting to 65,000 taka for violation of law. In contrast, from 2005 to 2007, fines significantly increased to 7,266,775 taka for 117 cases. In order to maintain the quality level of products, there were 250 mobile courts in 2002-2003, with 35 cases filed. By 2005, the number of mobile courts increased to 421, resulting in 910 cases submitted [9]. In contrast to the conventional, overloaded judicial system, mobile courts provide immediate,

efficient, and effective resolutions to criminal matters in the shortest time frame conceivable. Executive magistrates with restricted punitive power rule over the mobile court. It is improving the overall efficacy of court services [10]. The mobile court also delivers social justice, a civil right afforded to every person. It ensures equal legal protection for litigants who are impoverished, regardless of the opponent’s might. There is a deficiency of mobile courts, namely a lack of clear and precise regulations concerning them. The quantity of judges overseeing mobile courts is really restricted. A deficiency in the monitoring method is also evident. Another obstacle to the mobile court system is the limited public knowledge about its existence [11].

8. Procedure of Trial of Mobile Court

In mobile court, the majority of cases are settled fast. Section 262 of the Code of Criminal Procedure, 1898 states that when a case is tried summarily, the summary process must be followed [2].

9. The Mobile Court Act, 2009 in a Nutshell

Before to 2009, mobile courts were not specifically covered by any laws. It was carried out based on a number of dispersed legal provisions, including those of the Cr.P.C. A magistrate may try a case at the location where the offense was committed, according to certain provisions of the Code of Criminal Procedure. The Mobile Court Act, which was approved in 2009, contains information on mobile courts. It is seen below.

9.1 Mobile Court Judges

Executive magistrates are granted mobile court authority, which is very contentious. Section 5

states that the government may assign any executive judge in any district or metropolitan region the authority to run a mobile court. A formal order from the district magistrate may provide authority to operate a mobile court.

9.2 Powers of Mobile Court

Section 6 states that an executive magistrate or district magistrate authorized by this act may, in the course of any proceeding under this act, take cognizance of any crime listed in the Mobile Court Act's schedule if it has already occurred before him and impose punishment based on the confession of the offender.

The executive magistrate or district magistrate will prepare charges summarily and read them out to the accused in accordance with section 7 while holding a mobile court. The court will next inquire as to whether he entered a guilty plea. The court will look for justification for the accused's remark if he doesn't make a confessional statement. If the defendant makes a confessional statement, it will be recorded and the defendant's signature will be obtained. Two witnesses will also be asked to sign by the magistrate. The court will then apply a punishment. In the event that the accused does not enter a guilty plea and provide a sufficient statement, it may also grant discharge.

9.3 Appeal

In accordance with section 13, anybody who feels wronged by a mobile court's ruling may appeal to the district magistrate. Either the district magistrate or the additional district magistrate may hear it. An appeal may be submitted to the Court of Session if the District Magistrate renders the ruling. A session judge or another session judge may hear it.

10. Doctrine of Separation of Power

The doctrine of separation of powers has been elaborated by several scholars and thinkers, including Aristotle, John Locke, Montesquieu, and others. According to this view, each governmental organ should be free and autonomous. The legislative, executive, and judicial branches make up each state. These organs must all be kept apart and unhindered by one another. The partition of powers into separate branches of government is known as separation of powers. Wade and Phillips ((5) quoted in Takwani 1998) state that separation of powers might refer to three distinct concepts:

- i. That the same persons should not form part of more than one of the three organs of Government, e.g. The ministers should not sit in Parliament;
- ii. That one organ of the Government should not control or interfere with the exercise of its function by another organ;
- iii. That one organ of the Government should not exercise the function of another.

Since a state has three organs, the doctrine of separation of powers states that each of them must be autonomous and independent. It is forbidden for one organ to dominate or impede another. No one individual should be in charge of more than one organ. It is a philosophy that is necessary for creating justice and the rule of law in a nation [12].

11. Implications of Mobile Court on Separation of Judicial Power

The independent judiciary is seen to be protected by the separation of judicial authority. The concept of an independent judiciary includes judges using their authority in an unbiased manner free from interference, disruption,

coercion, threats, or force from other branches [11]. ‘There is no liberty if the power of judging is not separated from the Legislative and the Executive powers’, noted Montesquieu in his work “Spirit of Laws,” Vol. 1 [13].

The state’s judiciary serves as a barrier between the people and the government, protecting them from the abuse of executive authority and coercion [14]. The judiciary examines the legality and legitimacy of executive activities. This is to guarantee that the function is in compliance with the law and to maintain a check and balance [15]. Therefore, a distinct, independent, and capable judiciary is absolutely necessary. The rule of law is based on a unique and independent judiciary in order to make the rule of law applicable and efficient, the judiciary has a responsibility to maintain all governmental organs within the bounds of the law [16]. Judicial independence is not a theoretical idea.

Separating the power of the organs is a crucial component in the fight against the consolidation of power, but it should be kept in mind that complete separation is not feasible as this would weaken the check and balance and lead to inefficient communication between the state’s organs [17]. As part of the ruling in Masdar Hossain v. Bangladesh (1999) 52 DLR (AD) 82, the judiciary in Bangladesh was split from the state’s executive branch, effective November 1, 2007, in order to follow the Constitution’s provisions. As a result, the CrPC was amended to establish two sorts of magistrates: executive magistrates and judicial magistrates [18].

In addition to interfering, it also threatens the judiciary’s authority. Section 6(1) of the Mobile Court Act 2009 permits judicial activities that are forbidden by the constitution to be carried out by someone directly under the executive government’s supervision. They cannot carry out

the judicial functions of cognizance of offenses, conviction, and punishment. Once more, it is fundamentally against the natural justice concept as it permits a prosecutor or witness to decide the case and prevents the court from trying the case since the offense occurred in his presence. According to Section 6(2) of the Mobile Court Act 2009, the government is authorized to establish offenses under delegated laws and to penalize people who violate such regulations [11].

Despite providing protection against double jeopardy, Section 10 of the Mobile Court Act 2009 completely fails to attempt to offer protection to an acquainted person facing a trial, which is another violation of the Constitution. Because it permits district judges, who are essentially executive officials, to be appointed as the presiding officers of the mobile courts created under Section 4 of the Act, Section 11 of the Mobile Court Act 2009 is an ultra-virus of the Constitution. It enables district judges to preside over mobile courts in order to carry out judicial responsibilities that are limited to members of the Republic’s judicial service within the constitutional framework. Section 13 of the legislation, which permits district judges to serve as the appellate authority, has once again violated constitutional rights. Since district judges may serve as both the convicting and appellate authorities at different times, only they can determine when and what duties they will perform.

Additionally, section 15 of the Mobile Court Act 2009 violates the constitution since it gives the government the authority to change the timetable by publishing notices on official devices. Parliaments have unquestionably broken one of the fundamental tenets of the Constitution, the separation of powers by enacting section 15 of

the Mobile Court Act 2009 [19]. In order for a mobile court to operate, two requirements must be met: the planned crimes must be committed while the court is in session, the accused must confess to their guilt, and the court has restricted jurisdiction, which allows for a maximum sentence of two years in jail and a fine. In this case, the magistrate acts as both a judge and a prosecutor. Additionally, the suspect has no chance to defend themselves or seek legal counsel. This transcends the core principles of the Evidence Act, the Constitution, and basic human rights. The Appellate division's ruling in Masdar Hossain's case and the constitution's framework have been blatantly violated by the executive magistrates' acquisition of the Republic's judicial responsibilities under the Mobile Court Act 2009 [17]. Executive magistrates have a responsibility to uphold law and order and stop crimes from being committed within their separate jurisdictions for the benefit of the public. This section of the Mobile Court Act's preamble cannot be contested, but another section that gives executive magistrates the authority to punish the accused immediately by taking cognizance of offenses goes against the spirit of the ruling in Masdar Hossain's case and violates the judiciary's independence and the division of powers among the state's organs.

Therefore, the aforementioned portions have been declared invalid by the High Court Division in its decision in the matter of Government of Bangladesh and others vs. Md. Saifullah and others. There are a few things to keep in mind, however, such as the fact that the existence of 'lis' is a need for a judicial act to be deemed judicial [16]. Section 4(m) of the Code of Criminal Procedure states that procedure in which evidence is or may be taken under oath is a part of the judicial powers. Since the penalty in

a mobile court is based only on the accused's confession, which is separate from the judicial function, no such evidence is required or obtained from any witnesses under oath. Last but not least, if the accused's actions clearly warrant a sentence longer than two years, the executive magistrate has no choice but to refer the matter to a normal court. These considerations should be taken into consideration since mobile courts are quite crucial.

12. Comparison between National and International Mobile Court Systems and Independent Judiciary

12.1 Comparison between South Asian Mobile Court Systems

A fresh chapter in judicial activism was written in India when a sub divisional judicial magistrate introduced a mobile court during a session. Even though India had 'mobile lok adalat,' a bus with a superb design and a complete court setup, complete with attorneys and typewriters to administer justice, was unmatched. Interconnection and a regular, quick justice delivery system are the primary goals [21]. However, a mobile court was set up in the Northern Pakistan province of Khyber Pakhtunkhwa with the constitutional goal of guaranteeing prompt and affordable justice. To settle civil and criminal cases, the first mobile court was staffed by 26 attorneys and 8 judicial officials. The decision to bring justice to the general public was made due to the high expense of litigation, the difficult legal process, and the drawn-out adjudication system. But in Bangladesh, the idea of establishing a mobile court is based on the same principles as in India and Pakistan, which aim to provide justice in the least amount of time and money. However, the legal issues and distinctions between the Indian

and Pakistani mobile courts are that the former are run by executive judges, and the judicial responsibilities they carry out are against the independence of the judiciary and Article 22 of the Constitution [22]. Another distinction is that the magistrate serves as both the judge and the prosecutor in this mobile court. The suspect has little chance of receiving legal counsel or a defense. It violates basic human rights, the Constitution, and sections 24–30 of the Evidence Act of 1872 [24]. As a result, it is now rather contentious.

12.2 Comparison between National and International Independent Judiciary

Although it is believed that when foreign governments are in place, the judiciary and executive must be kept apart, this notion has recently been abandoned. Three branches of the state are intertwined in England. Despite the strong relationship between legislative, executive, and judicial authority, the judiciary maintains its independence because high court justices are appointed for life, eliminating the possibility of needless impeachment. Judges are also immune from legal liability for their judicial activities. Once again, the court has the authority to raise concerns about the legitimacy of any public body's conduct. This helps the judges stay out of trouble with the administration and parliament [25]. The idea of separation of powers is implicitly included in the Indian Constitution. Constitutions provide provisions for viable autonomous state organs in the absence of clear regulations that fully embrace the notion of separation of powers. The legislature overlaps the judicial branch's powers by amending laws and revalidating those that the court has ruled to be outside its authority. Additionally, judges may be removed and impeached in circumstances

when their privilege has been violated. By appointing judges and the Chief Justice, the administration has an impact on how the judiciary operates [25]. However, in India, several rules have been implemented to keep the executive and judicial branches apart. For instance, various laws are in place in Bombay, Madras, Andhra Pradesh, Kerala, Uttar Pradesh, and other states to distinguish themselves [22]. There, the judiciary was divided by executive order in addition to statute. The Constitution of Bangladesh is responsible for the survival of all three organs. Legislation is codified by parliaments and interpreted by judges [26]. Separation of powers is a fundamental framework, although it is not absolute. While parliament may provide a solution for some issues, the court has the ability to create rules in certain areas [27]. However, a legislation may be deemed ultra vires if any legislative function results in a constitutional divergence [28]. Additionally, Parliament cannot reject or invalidate a court's decision since it would be null and void, but it may change the legislation to undermine the foundation of court rulings [29]. Additionally, CEOs are not permitted to carry out tasks that belong to the judiciary. But in Bangladesh, the executive branch's immense authority to encourage the transfer and punishment of executive judges performing judicial duties breeds expectations of favor and sometimes a fear of being victimized [30]. Additionally, it is often possible to verify the veracity of reports of intervention. The appellate division in Masdar Hossain's case cited the three fundamental requirements for an independent judiciary that were enumerated by the Canadian Supreme Court in *Walter Valente versus Her Majesty the Queen* and others [32]. These requirements include tenure security, salary and

other compensation security, and institutional independence to make decisions on its own administrative matters that directly affect the existence of its judicial functions [30]. However, the executive branch continues to handle the majority of the Supreme Court's financial problems. The judiciary's independence is hampered by the executives' financial clout and reliance [31]. Once again, the Sixteenth Amendment gave Parliament the authority to remove Supreme Court justices, giving the executive branch more concentrated power and the judiciary a subordinate role to parliament [33]. 'Government clearance' is required in such a procedure, even though it is evident that the Chief Justice and the Highest Court itself choose the Supreme Court staff. Therefore, the independent judiciary's reputation has suffered as a result of the judicial tasks carried out by the government.

13. Mobile Court and Separation of Judiciary

Executive magistrates preside over mobile courts, as was previously said. Initially, an executive magistrate was not required to operate the mobile court equipment. However, the Mobile Court Act stipulates that an executive magistrate would preside over the court, which is a flagrant breach of both the constitution and the separation of powers. Because a mobile court is a court as well. It also adheres to the court's proceedings. However, fundamental structure cannot be changed (9) Haq 2020 also cites Anwar Hossain Chowdhury v. Bangladesh. According to the Supreme Court of Bangladesh in a hearing of a writ petition, giving executive magistrates judicial authority is a direct assault on the independence of the judiciary and violates the theory of separation of powers. Sections 5, 6, 1, 2, 6, 4, 7, 8, 1, 9, 10, 11, 13, and 15 of the Mobile

Act, 2009 violates two fundamental constitutional structures, the separation of powers and the independence of the judiciary and goes beyond the bounds of the constitution [12].

14. Findings & Discussion

First, the absence of a clear and comprehensive legal framework remains a fundamental challenge. Mobile courts largely operate on indirect statutory interpretation and judicial precedents rather than on a well-defined and coherent legal basis. This ambiguity weakens procedural certainty and accountability, particularly in a context marked by limited legal awareness and a developing legal culture in Bangladesh.

Second, the shortage of judicial and administrative personnel significantly constrains the effective functioning of mobile courts. A very limited number of judges are tasked with supervisory roles alongside their regular judicial duties, resulting in inadequate oversight and reduced institutional efficiency, especially in addressing the needs of rural and marginalized populations.

Third, logistical and infrastructural deficiencies continue to hinder operational effectiveness. Insufficient support staff, limited transportation facilities, and inadequate financial resources restrict the mobility and responsiveness of mobile courts. These constraints undermine their intended flexibility and weaken their ability to function as an accessible justice mechanism.

Fourth, low public awareness and negative perceptions present additional barriers. Many individuals, particularly from disadvantaged or informal sectors, lack a clear understanding of the role and authority of mobile courts. This often results in resistance, mistrust, and non-cooperation, further compounded by broader

issues such as corruption, weak institutional discipline, and skepticism toward law enforcement.

Fifth, there is a lack of a coherent long-term policy and institutional strategy governing mobile courts. The current framework appears fragmented and reactive, raising concerns about sustainability and adaptability in response to evolving legal and socio-political conditions.

Finally, the absence of an effective monitoring and accountability mechanism critically undermines the system. Without robust oversight, evaluation, and review processes, it becomes difficult to ensure that mobile courts operate in a manner consistent with principles of fairness, due process, and constitutional governance.

15. Recommendations

Mobile courts should, in the first instance, consist of session judges or first-class magistrates empowered to conduct summary trials, in line with the provisions of the Code of Criminal Procedure. This will also help expedite the process and will increase mobile courts effectiveness by placing judicial processes with the needed authority and a keen eye to procedure. Second, to create an efficient mobile court, the above-mentioned organizations such as Bangladesh Standards & Testing Institution, Bangladesh Road Transport Authority, Dhaka City Corporation, Directorate General of Health, Bangladesh Rifles, and Metropolitan Police should work together.

Third, Human and logistical support to do so is the third needs. Personnel and funds, are two of the numerous reasons that hold off the mobile courts from operating at full capacity amid the ongoing scarcity of both. This will entail increasing the number of judges, support staff, and logistical supplies vehicles, equipment to

grow the capacity and coverage of the court, especially in remote and rural areas.

Fourthly, mobile courts should be governed by a specific set of laws. In order to address the absence of a proper legal basis and to allow their operations to be uniform and lawful, the government should also provide clearer legislative bases that indicate the types of authority, duties, and procedures to mobile courts.

Fifth, there should be adjective or procedural laws. Such laws would offer specific standards and rules for the trial processes, ensuring justice, and defending citizen rights in the mobile court system.

Last but not the least, there should be more engagement on the part of the media. Through media engagement in raising awareness about mobile court activities and its functions of work, the courts may increase the level of public awareness, support, and guarantee the openness of their work. Much of this may also rely on the media to revisit and reinforce the efficacy and necessity of the mobile court.

16. Conclusion

Mobile courts, in response to delays and inefficiencies in the formal justice system, are seen as a practical solution; however, the structural design of mobile Courts does raise significant constitutional concerns about the separation of powers and due process guarantees. The fact that mobile Courts have concentrated executive, as well as quasi-judicial, functions in one authority will lead to inherent conflicts with the established principles of judicial independence. Through empirical observation and legal analysis, it is clear that while mobile courts provide a quicker methods of resolving disputes and enforcing regulations, they often do

so at the expense of proper procedural safeguards and limits on the ability to appeal. These findings have two main implications. First, there is a clearly articulated need to recalibrate the operational framework of mobile courts to satisfy constitutional requirements, particularly the protection of fundamental rights and fair trial standards. Second, since mobile courts will continue to be relied on as a primary mechanism for law enforcement and compliance, by normalizing their use, we are ultimately undermining the institutional integrity of the regular judiciary. This article ultimately reflects upon the existing literature to critically position mobile courts within the broader context of the constitutional discourse of Bangladesh. In doing so, it demonstrates that the legitimacy of mobile courts cannot be determined only by their usefulness, but also by compliance with the principles of rule of law. The mobile courts can only serve a supplementary purpose. A mobile court system should include effective oversight, well-defined limits on their jurisdiction, and institutional checks. Otherwise, the mobile court will continue to exist only temporarily and will provide an incomplete, as well as an on-going solution to the delivery of justice.

Acknowledgement

At first, we would like to thank Almighty Allah for his kindness to us in accomplishing this research work. We are grateful to all of them who have given guidance and co-operation during the tenure of the study. Finally, we want to express our deep gratitude to our family members and to all well-wishers whose enormous help assisted us to complete this study.

Declaration of generative AI use

We, hereby declare that this research work titled “Mobile Courts and Separation of Powers in Bangladesh: A Legal Analysis” is our original work, prepared entirely without the use of generative AI tools and done in accordance with the comprehensive guidelines of Academic Journal of European University of Bangladesh. The sections of the research that is used from another author have been properly referenced or acknowledged.

References

- [1] B. U. Khan, “Role of Mobile Courts in the Enforcement of Laws in Bangladesh,” Seminar presented at the Faculty of Law, Eastern University, Dhaka, Bangladesh, Jun. 2, 2007. [Online]. Available: <https://www.banglajol.info/index.php/NUJL/article/view/18527/12977>. Accessed: Nov. 27, 2025.
- [2] I. A. Tushar *et al.*, “An overview study on mobile court in the context of Bangladesh,” *International Journal of Law*, vol. 8, no. 6, pp. 283–287, 2022. [Online]. Available: <https://www.lawjournals.org/assets/archives/2022/vol8issue6/8-4-25-970.pdf>. Accessed: Nov. 17, 2025.
- [3] *The Code of Criminal Procedure*, 1898, s. 9.
- [4] *The Code of Criminal Procedure*, 1898, ss. 10–15, 18.
- [5] *21 DLR 10; PLD 1962 Kar. 249 (BD)*, 1969.
- [6] Z. Hoque, *Law and Practice of Criminal Procedure*, 9th ed.
- [7] *1987 CrLJ 1922*.
- [8] J. Hoque, “Drawbacks and Prospects of Trial under Mobile Courts Act, 2009: Bangladesh Perspective.”
- [9] G. D. H. Ferdous and S. R. Ferdous, “The role of mobile courts in the enforcement of laws in Bangladesh,” *Northern University Journal of Law*, vol. 1, pp. 82–95, 2010. doi: 10.3329/nujl.v1i0.18527.

- [10] S. Rana, "Mobile courts can make a difference," *The Daily Star*, 2017.
- [11] F. Akter, "Separation of Judiciary in Bangladesh: A Big Leap Leading to Independence and Its Potential Impacts," *Dhaka University Studies*, vol. 18, pt. F, pp. 203–216, 2007. [Online]. Available: <https://journal.library.du.ac.bd/index.php/DULJ/article/view/1596/1504>. Accessed: Nov. 04, 2025.
- [12] A. B. Tamanna, "A Critical Evaluation of Mobile Court Act 2009: How Mobile Court Demolishes Separation of Judiciary and Other Constitutional Principles of Bangladesh," *Asian Journal of Humanities and Social Studies*, vol. 11, no. 6, pp. 22–28, 2023. doi: 10.24203/ajhss.v11i1.7164.
- [13] C. de Montesquieu, *The Spirit of Laws*, vol. 1, 1748.
- [14] M. M. H. Hossain, "Separation of Judiciary in Bangladesh: Constitutional Mandates and Masdar Hossain Case's Directions—A Post-Separation Evaluation," *International Journal of Constitutional Analysis*, vol. 11, 2020. doi: 10.36745/ijca.310.
- [15] M. A. H. Mollah, "Judicial oversight of bureaucracy," in *Global Encyclopedia of Public Administration, Public Policy, and Governance*, Cham, Switzerland: Springer, 2018, pp. 3450–3457. doi: 10.1007/978-3-030-66252-3_697.
- [16] *Government of Bangladesh and Others v. Md. Saifullah and Others*, 2017.
- [17] *Ministry of Finance v. Masdar Hossain*, 52 DLR (AD) 82, 1999.
- [18] T. O. E. Moch, "Principle of separation of powers between the legislature and judiciary: Distribution and limitation of state power," *International Journal of Public Administration, Management and Economic Development*, vol. 8, no. 2. doi: 10.60026/ijpamed.v8i2.129.
- [19] *The Mobile Court Act*, 2009.
- [20] *Labour Relations Board of Saskatchewan v. John East Iron Works Ltd.*, (1948) 4 DLR 673.
- [21] S. Bhattacharya, "Justice at the doorstep," *Business Today*, Sep. 9, 2020.
- [22] S. Srivastava, "Separation of Judiciary from Executive in India with Particular Reference to Uttar Pradesh," *The Indian Journal of Political Science*, vol. 25, no. 3/4, pp. 339–346, 1964.
- [23] *Constitution of the People's Republic of Bangladesh*, art. 22, 1972.
- [24] *The Evidence Act*, 1872, ss. 24–30.
- [25] T. Lipi, "Separation of Judiciary from the Executive: An Evaluation and Analysis," 2013. doi: 10.13140/RG.2.1.4575.1203.
- [26] *BLAST v. Bangladesh*, 15 BLT 156, 2007.
- [27] *Bangladesh v. Md. Aftab Uddin*, BLD (AD) 1, 2010.
- [28] *Shah Abdul Hannan v. Bangladesh*, 16 BLC 386, 2011.
- [29] *Mofizur Rahman v. Bangladesh*, 34 DLR (AD) 321, 1982.
- [30] M. Islam, *Constitutional Law of Bangladesh*, 3rd ed., Dhaka: Mollick Brothers, 2017.
- [31] N. Ahmed, "The Problem of the Judiciary in Bangladesh," *Bangladesh Journal of Law*, vol. 2, no. 2, 1998.
- [32] *Valente v. The Queen*, [1985] 2 SCR (Canada).
- [33] M. A. Halim, *Constitution, Constitutional Law and Politics: Bangladesh Perspective*, 12th ed., Dhaka: CCB Foundation, 2018.
- [34] Akkas Sarkar Ali, *Principles of constitutional law*, 2nd ed, Dhaka: Bijoy Law Book House., 2021
- [35] Dr. M. Chowdhury Jashim Ali, *An Introduction to The Constitutional Law of Bangladesh*, 4th ed., Dhaka : Book Zone Publications, 2020