

# Judicial Reform in Bangladesh - Restoring Independence, Accountability, and Efficiency

November 2024

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# 1



## Overview



# Overview

The judiciary in Bangladesh, once a robust pillar of democracy and protector of citizens' rights, has been severely compromised over the past decade. During the tenure of Prime Minister Sheikh Hasina, the judiciary has faced increasing political interference, inefficiency, and corruption.

The consequences have been profound, eroding public trust in the rule of law, fostering impunity for the political elite, and contributing to the dysfunction of democratic governance. Comprehensive judicial reform is now a critical priority to restore the judiciary's independence, accountability, and efficiency.

With the interim government led by Dr. Muhammad Yunus, there is an opportunity to introduce far-reaching reforms that address the deep-rooted issues within the judicial system. The objective must be to ensure that the judiciary can operate independently of political pressures while improving efficiency and access to justice for all citizens.

**“Judges who attempt to make independent decisions, particularly those that challenge the government, frequently face intimidation, forced transfers, or even removal from office.”**

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# Political Interference And The Erosion Of Judicial Independence



# Political Interference And The Erosion Of Judicial Independence

Political interference has long been a concern for Bangladesh's judiciary, but under Sheikh Hasina's leadership, this interference has reached alarming levels. The executive branch wields undue influence over judicial appointments, decisions, and administration.

Judges are frequently appointed based on political loyalty rather than merit, creating a judiciary that is more aligned with the government's interests than with upholding impartial justice. A 2019 Transparency International report found that more than 70% of Bangladesh's population believe political interference has seriously compromised the fairness of the judicial system.

Judges who attempt to make independent decisions, particularly those that challenge the government, frequently face intimidation, forced transfers, or even removal from office. A 2020 report by the Asian Human Rights Commission documented numerous instances of judges being reassigned to less influential positions after issuing rulings unfavourable to the government.

The control exerted by the executive over judicial appointments ensures that rulings on politically sensitive cases—particularly those involving allegations of corruption or opposition figures—often favour the ruling party. Judges who attempt to make independent rulings face consequences, including forced transfers to less significant posts or outright dismissal.

One of the most prominent examples of such interference is the case of Justice Surendra Kumar Sinha. In 2017, as Chief Justice, Sinha delivered a landmark ruling affirming judicial independence from executive interference. His ruling triggered a severe backlash from the government, including public defamation campaigns, culminating in his forced resignation and exile from the country. The consequences of this case sent a chilling message to the judiciary, reinforcing the notion that challenging the government can result in personal and professional ruin.



Justice Surendra Kumar Sinha was forced to resign and exiled from the country after he delivered a landmark ruling that was not in favour of the government.

**“As of 2023, more than 3.7 million cases were pending in courts across the country, with some cases taking over five years to resolve. This immense backlog not only delays justice but also discourages citizens from pursuing legal redress.”**



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# Inefficiency And Case Backlog - A Broken System

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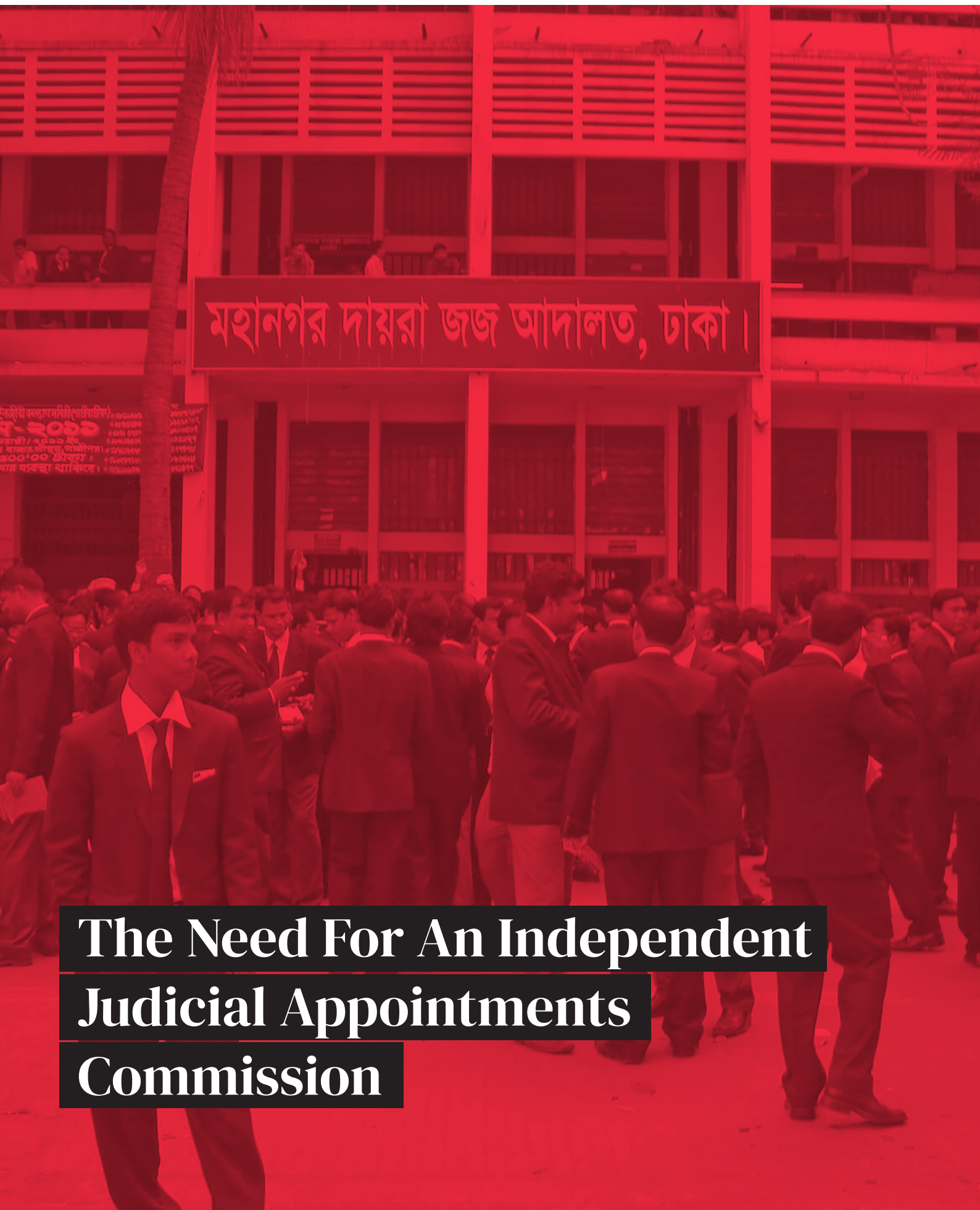
# Inefficiency And Case Backlog - A Broken System

Alongside political interference, the inefficiency of the judiciary has led to severe delays in the delivery of justice. As of 2023, more than 3.7 million cases were pending in courts across the country, with some cases taking over five years to resolve. This immense backlog not only delays justice but also discourages citizens from pursuing legal redress. In cases of corruption, human rights violations, and political repression, these delays allow the powerful to escape accountability, as the protracted legal processes reduce the impact of eventual rulings.

The backlog is exacerbated by the judiciary's outdated administrative processes and the severe underfunding of courts. Judges are overwhelmed by excessive caseloads, with insufficient support to manage them efficiently. The lack of modern case management systems also hinders the ability of courts to process cases promptly. These delays serve to increase public disillusionment with the judicial system and reduce confidence in its ability to deliver justice.

**“Currently,  
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**The Need For An Independent  
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## 4

# The Need For An Independent Judicial Appointments Commission

One of the most urgent reforms is the establishment of an independent Judicial Appointments Commission. Currently, the executive controls judicial appointments, which perpetuates political bias within the judiciary. An independent body responsible for overseeing the selection of judges would help restore public confidence in the judiciary's impartiality. This commission would ensure that judges are appointed based on merit, legal expertise, and integrity, rather than political allegiance.

A model for such reform can be found in the United Kingdom, where the Judicial Appointments Commission, established in 2006, operates independently of the government and selects judges through a transparent, merit-based process. In Bangladesh, a similar commission would need to be empowered to review and assess candidates impartially. The inclusion of diverse stakeholders, including representatives from the judiciary, legal profession, academia, and civil society, would provide further checks and balances within the appointment process. Public scrutiny of the commission's decisions could also enhance transparency and increase public confidence in judicial appointments.

**“Political retaliation  
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5



# Securing Judicial Tenure And Insulating Judges From Political Retaliation



# Securing Judicial Tenure And Insulating Judges From Political Retaliation

Ensuring the security of judicial tenure is essential for safeguarding the judiciary's independence. Currently, judges in Bangladesh face threats of dismissal or forced reassignment if they deliver rulings unfavourable to the government. To counter this, constitutional amendments are needed to protect judges from arbitrary dismissal or reassignment. Judges should only be removed from office through a transparent and independent process, based on proven misconduct, rather than political considerations.

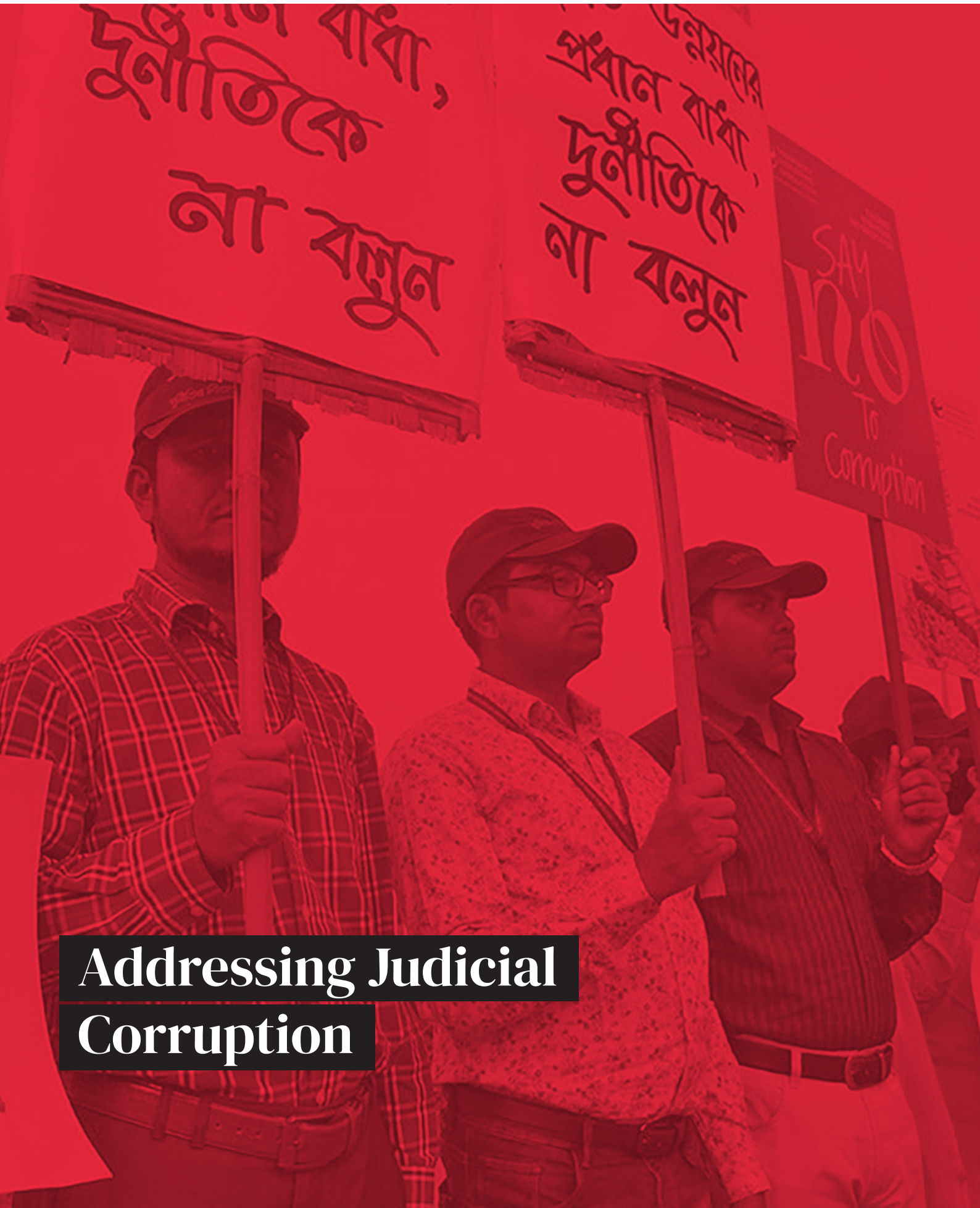
The case of Justice Sinha highlights the dangers of a politicised judiciary. Following his ruling that strengthened judicial independence, he was subjected to sustained political pressure and ultimately forced to resign. This type of political retaliation against judges undermines the very foundations of judicial independence and serves as a deterrent to other judges who may wish to act impartially.

An independent judicial oversight body, free from executive control, could provide necessary protection for judges. This body would handle complaints and disciplinary actions, ensuring that judges are not subject to political interference. Legal protections for judicial decisions would further prevent judges from being penalised for rulings that go against the government or other political elites. Countries such as India provide strong constitutional safeguards for judicial independence, with impeachment as the only means of removing higher court judges. Adopting similar protections in Bangladesh would offer essential security to the judiciary.



**“Bribery,  
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# 6



## Addressing Judicial Corruption

## 6

# Addressing Judicial Corruption

Corruption within the judiciary, particularly at lower levels, remains a significant barrier to justice. Bribery, favouritism, and political influence have damaged the reputation of the courts, leading to widespread public mistrust. A Transparency International Bangladesh report in 2020 revealed that 63% of citizens believe the judiciary to be corrupt, especially in the lower courts. This corruption undermines the judiciary's ability to function as an independent and impartial institution.

Specialised anti-corruption courts could be established to focus solely on cases involving public officials, politicians, and instances of judicial misconduct. These courts would operate with strict oversight and transparency, helping to restore confidence in the judiciary's ability to combat corruption. The experience of Indonesia provides an example of how specialised anti-corruption courts can help address systemic corruption. Following the fall of the Suharto regime, Indonesia established such courts, which have been instrumental in prosecuting high-level corruption cases.

Additionally, a revised code of judicial ethics, coupled with a zero-tolerance approach to bribery and misconduct, would ensure accountability within the judiciary. Public interest litigation (PIL) could be further expanded, allowing civil society and citizens to bring cases challenging government corruption and human rights abuses, holding public institutions accountable.

**“Expanding the use of alternative dispute resolution (ADR) mechanisms, such as mediation and arbitration, would reduce the pressure on courts.”**



# **Modernising The Judicial System To Reduce The Case Backlog**



# Modernising The Judicial System To Reduce The Case Backlog

Addressing the enormous backlog of cases is critical to improving efficiency within the judiciary. Introducing digital case management systems would help streamline court operations and reduce delays. For example, the Philippines' eCourt system, introduced in 2013, has significantly reduced delays by allowing for automated case scheduling and tracking. Implementing a similar system in Bangladesh would enable courts to process cases more efficiently and transparently.

In addition to technological upgrades, the appointment of temporary judges to address the backlog would provide immediate relief. These judges could handle simpler cases, allowing permanent judges to focus on more complex matters. Expanding the use of alternative dispute resolution (ADR) mechanisms, such as mediation and arbitration, would also reduce the pressure on courts, offering faster, less expensive alternatives to litigation in civil and commercial disputes.

**“Currently, the judiciary’s financial needs are dependent on the executive, creating opportunities for financial leverage to influence judicial decisions. Granting the judiciary control over its own budget would safeguard its independence.”**



Opening Ceremony  
**Seminar on Judicial Independence**

7-9 May 2017

**Chief Guest: Mr. Justice Muhammad Imman Ali**  
Hon'ble Judge, Appellate Division, Supreme Court of Bangladesh

Venue: Conference Room, Supreme Court of Bangladesh



**Ensuring Long-Term  
Judicial Independence**



## 8

# Ensuring Long-Term Judicial Independence

While immediate reforms such as case management improvements and anti-corruption measures are necessary, ensuring long-term judicial independence requires systemic changes. Constitutional amendments are needed to protect the judiciary from political manipulation, particularly in the appointment and dismissal of judges. Judicial budget autonomy is another crucial reform.

Currently, the judiciary's financial needs are dependent on the executive, creating opportunities for financial leverage to influence judicial decisions. Granting the judiciary control over its own budget would safeguard its independence, allowing it to manage its resources and ensure adequate funding for its operations, training, and technological upgrades.

Civic education campaigns that promote legal literacy and public understanding of the judiciary's role could help engage citizens in the reform process, empowering them to demand accountability and transparency from both the judiciary and the government.

Ongoing international cooperation and oversight, involving organisations like the International Bar Association (IBA) and the United Nations Development Programme (UNDP), would provide technical expertise and help monitor the implementation of reforms, ensuring that they are aligned with global best practices.

**“The judiciary, compromised by political interference, inefficiency, and corruption, must be revitalised through a combination of immediate and long-term reforms.”**

# 9



## Conclusion - A Path Forward For Judicial Reform

## 9

# Conclusion - A Path Forward For Judicial Reform

Judicial reform in Bangladesh is essential to restoring public trust in the rule of law, ensuring accountability, and curbing the corruption that has infiltrated every level of governance. The judiciary, compromised by political interference, inefficiency, and corruption, must be revitalised through a combination of immediate and long-term reforms. An interim government, led by Dr. Muhammad Yunus, has the opportunity to initiate these crucial reforms and safeguard the judiciary's independence, ensuring that it can deliver justice impartially and effectively.

Reforms must include the establishment of an independent Judicial Appointments Commission, constitutional protections for judicial tenure, stronger anti-corruption measures, and modernisation of court systems to reduce inefficiency.

Long-term reforms such as judicial budget autonomy and public engagement in the judicial process will ensure that these changes endure beyond any one administration. These reforms are not only necessary for the judiciary but also for the preservation of democratic governance and the protection of human rights in Bangladesh.



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