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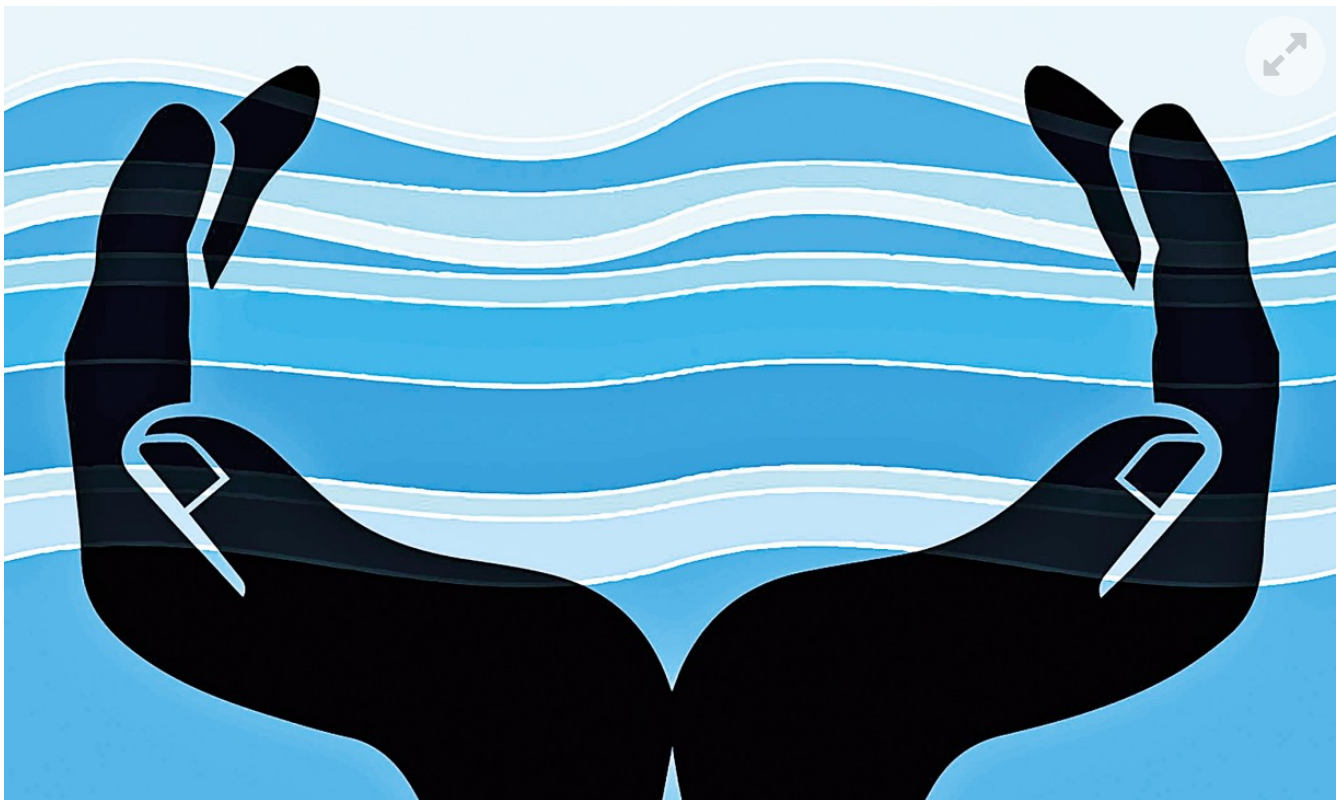
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Institutional barriers in accessing civil justice system

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Sekander Zulker Nayeem

Goal 16 of the SDGs pledges ‘ensuring access to justice for all’ as a target to be achieved. The term ‘all’ signifies everyone irrespective of their race, sex, color, language, religion, wealth, etc. In this article, I will not take a holistic approach to access to justice, but

attempt to explore the likely institutional barriers that cause obstacles for the poverty ridden people in starting judicial proceedings before any civil court. However, before entering into formal judicial proceeding, justice-seekers tussle in some institutions, e.g., local land office, registration office, DC office and Judge Court, for collecting copies of required documents which carry forward some paradigm of institutional obstacles.

The first obstacle is the location of judicial and administrative offices. As 75% of the country's population lives outside of urban centers, with many of the most marginalised living in remote, hard-to-reach areas, the centralisation of government offices constitute serious obstacles to their accessing justice. Such centralisation compels them to travel to District town for having the copies of any deed, record-of-rights (there is a mechanism of getting it through Union Digital Centre), judgments and orders of courts. Sometimes they even need to travel the capital for collecting copy of record-of-rights because of its non-availability in the District. For example, I witnessed several occasions when the litigants had to travel to Dhaka because the Deputy Commissioner's Record Room denied issuing certified copy of record-of-rights disclosing the fact that the original one in the volume is either obscure or torn out.

The second obstacle is inadequate capacity and resources of those institutions. People often meander for couple of days and even months to get certified copies of required documents because the institutions are understaffed, below-standard-staffed and inadequately equipped. The Copying Department of District Judge Court is a classic example of such phenomena. People would hardly find sufficient computers, photocopiers and efficient staffs in this department. Such insufficiency and inefficiency delay access to justice.

The third barrier is the psychological one which includes attitudes of staffs. Often, the service-recipients get discriminatory, bias and sometimes abusive attitudes from the government personnel when they start collecting necessary documents for instituting any suit. Such attitudes at the outset of instituting a suit, discourage them to move forward for seeking justice any further.

The fourth one is the costs. It is universally admitted that continuing with civil litigation is so expensive that poor people cannot manage it without having a third party funding the litigation. In our country, the National Legal Aid Services Organisation (NLASO) is extending incredibly good funding supports to poor litigants covering all expenses starting from the institution of a suit to obtaining copy of final judgments. If I compare, I must confess even the British Legal Aid Agency does not bestow such a non-refundable litigation funding upon incapable people as Bangladesh does. However, the NLASO does not support for any expenditure necessary for collecting required documents before institution of the suit which is the main concern of this article. Therefore, poor people have to manage those documents at their own costs. Moreover, there are some collateral costs (e.g., transportation, accommodation,

loss of income) concomitant with moving forward for justice. The cumulative impact of those costs is a crucial factor preventing the poor from accessing the justice system.

The fifth and most important one is the corruption of staffs and non-staff touts. An example could be mentioned here with a view to clarifying the intensity of such corruption. In a District Court when I was in charge of the Copying Department, I discovered hundreds of applications for certified copies of judgments and orders in the queue of disposal. According to the Civil Rules and Orders (CRO), any party requires to submit either a general or an urgent petition for obtaining a certified copy.

Ridiculously, there was a trend of submitting a special petition paying 10 taka court fee for getting a certified copy promptly and that petition was subject to the approval of concerned judge-in-charge. Every afternoon when the Head clerk of the Department used to come for my endorsement on the petition, the other staffs whispered that the Head clerk is going to have his cheque signed. Latter, I discovered he receives bribe of at least ten thousand Taka for disposing the special petition and delivering the certified copy in one day.

However, this particular problem was addressed properly and the Department was regularised with the active support of District Judge. Such exacerbated condition of every such government office supposes that persons who cannot afford bribes for services that should be free or low-cost-service, have their service egregiously delayed, denied or discontinued which eventually restrain them from entering into the judicial mechanism and thereby deprives them from access to justice.

The writer is Joint District Judge and volunteer of SDG Lab.

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