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RESEARCH ARTICLE

RESTORATIVE JUSTICE IN BANGLADESH: AN OVERVIEW ON GROWING, THEORIZING, AND PRACTICING MODALITY

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Abstract

Introduction: Bangladesh's criminal justice system is under strain that few reforms have relieved. More than 4.5 million cases were pending across the judiciary at the end of 2024, prisons held nearly twice their sanctioned capacity, and roughly three quarters of prisoners had not been convicted of anything.

Objectives: This paper asks whether restorative justice offers a credible alternative to the conventional retributive process for suitable categorie s of offences in Bangladesh.

Design and Method: The study is qualitative and interpretive in design, drawing on secondary sources: statutes and case law, government and Supreme Court statistics,program evaluations by development partners, peer reviewed scholarship, and credible national reporting. The analysis develops four connected arguments. First, the crisis of the formal system is structural rather than episodic, rooted in a colonial procedural architecture that marginalizes victims and rewards delay. Second,

Findings and Analysis: Bangladesh already possesses restorative leani ng infrastructure, from customary shalish and statutory village courts to diversion and family conferencing under the Children Act 2013 and a decade of donor supported restorative pilots. Third, international evidence and Islamic legal tradition together supply normative, empiric al, constitutional, cultural, and economic justifications for a restorative track. Fourth, the risks are real, particularly gender bias, elite capture, and due process erosion, so the paper closes with a safeguarded legislative and institutional pathway rather than a wholesale replaceme nt of criminal courts.

Conclusion: The findings speak to policy makers, judges, and research ers working on access to justice in South Asia. In Bangladesh, restorati ve justice is a relatively new formal model to reconciliate the communit y based victimizations through victim offender mediation and reconcile iation process.

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Introduction:-

Justice in Bangladesh moves slowly, and for many people it barely moves at all. By 31 December 2024, a total of 4,516,603 cases were pending before the Appellate Division, the High Court Division, and the subordinate courts, up from 1,789,914 in 2008, and in 2024 alone the courts received about 1.47 million new cases while disposing of about 1.2 million (Sarkar, 2025). The gap keeps widening. By 31 March 2026, the figure reported to Parliament had crossed 4.63 million, with more than four million of those cases sitting in the lower courts (The Daily Star, 2026). Each High Court judge was carrying an average of 6,552 cases in 2024 (Sarkar, 2025). Behind these totals are complainants who wait a decade for a land dispute to be heard, witnesses whose memories fade, and accused persons who spend years in custody before any court decides whether they did anything wrong.

The custodial picture is just as troubling. In October 2025 the country's 71 prison facilities held 79,081 inmates against a sanctioned capacity of 43,157, with nearly 12,000 new incarcerations recorded in the year after the political upheaval of August 2024 (Dhaka Tribune, 2025). Around three quarters of the prison population had not been tried (Mia et al., 2025), a proportion the World Prison Brief has previously ranked among the two or three highest in the world (Dhaka Tribune, 2021). A system that detains mostly unconvinced people, in space allocations that have shrunk to a fraction of the legal standard, is not delivering the protection or the fairness that criminal justice exists to provide.

The response to date has been more of the same: more judges, more courts, more benches. These measures matter, and the government has created hundreds of new judicial posts in recent years (The Daily Star, 2026). Yet a growing body of Bangladeshi legal commentary now argues that capacity expansion alone cannot outrun a caseload that grows by roughly 160,000 cases a year (Sarkar, 2025), and that the country must also change how disputes enter and exit the system in the first place (Adnan, 2025). The Chief Justice's reform roadmap of 21 September 2024 named the mismatch between judges and cases as a central cause of the backlog (The Financial Express, 2025), and training initiatives on non-custodial measures organized with the United Nations Office on Drugs and Crime (UNODC) in early 2025 signaled official interest in alternatives to imprisonment (UNODC, 2025). The question this paper takes up is whether restorative justice, a family of processes in which victims, offenders, and community members deal collectively with the aftermath of an offence, can serve as a principled and workable alternative to the conventional criminal process for suitable cases in Bangladesh.

The question is timely for three reasons. First, restorative justice is no longer a foreign import waiting to be tested. Community mediation in the form of shalish has existed in Bengal for centuries, village courts have a statutory footing dating to 1976 and refreshed as recently as 2024, the Children Act 2013 already contains diversion and family conferencing provisions, and a formal restorative justice program ran in dozens of districts between 2013 and 2018 under a government partnership with German development cooperation (Asadullah & Morrison, 2021; Braithwaite, 2015; BSS, 2024; Children Act, 2013). What Bangladesh lacks is not restorative practice but a coherent legal framework, quality safeguards, and a considered account of where restorative processes belong and where they do not. Second, the international evidence base has matured. Systematic reviews now report consistent gains in victim satisfaction and meaningful, if modest, reductions in reoffending when restorative conferencing is done properly (Latimer et al., 2005; Sherman & Strang, 2007; Strang et al., 2013). Third, the reform window that opened after August 2024 has put structural questions about the justice sector on the national agenda in a way not seen for a generation (The Financial Express, 2025).

Methodology:-

This is a qualitative study grounded in an interpretive orientation. It treats law and justice institutions as social practices whose meaning must be understood in context, not merely as rules to be catalogued (Johnstone & Van Ness, 2007). The design combines two complementary strategies. The first is doctrinal analysis of primary legal materials: the Constitution of Bangladesh, the Code of Criminal Procedure 1898, the Penal Code 1860, the Village Courts Act 2006 and its 2013 and 2024 amendments, the Children Act 2013, the Probation of Offenders Ordinance 1960, the Legal Aid Services Act 2000, and reported case law such as BLAST v Bangladesh (2003). The second is documentary analysis of secondary sources: Supreme Court and parliamentary statistics as reported in the national press, program documents and evaluations from GIZ, UNDP, and UNODC, peer reviewed scholarship on restorative justice and on informal justice in Bangladesh, and the comparative and meta-analytic literature on restorative outcomes.

Sources were selected purposively against three criteria: relevance to the research question, credibility of the producing institution, and recency, with a preference for material published or updated between 2019 and 2026 for empirical claims and for foundational theoretical works regardless of age. Every empirical claim in the paper carries a date and a source, and figures are reported with their reference dates because justice statistics in Bangladesh move quickly. Analysis followed a thematic logic: materials were read iteratively, coded around recurring themes such as delay, victim marginalization, informal justice capture, and diversion, and then organized into the argument structure presented below.

Two limitations deserve honest statement. Reliance on secondary sources means the paper cannot report new fieldwork with victims, offenders, or facilitators, and the evaluation literature on Bangladeshi restorative pilots is thin, dominated by program reporting rather than independent outcome studies (Asadullah & Morrison, 2021). The paper compensates by triangulating across source types and by treating programclaims cautiously, but the gap itself is a finding: Bangladesh needs rigorous local evaluation before, during, and after any scale up.

Restorative Justice: Concept, Theory, and Evidence:-

Concept and Core Values:-

The most widely used definition remains Marshall's restorative justice is a process whereby the parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future (Marshall, 1999). Zehr (2015) frames the shift as a change of lens. The retributive lens asks what law was broken, who broke it, and what punishment is deserved. The restorative lens asks who was harmed, what they need, and whose obligation it is to meet those needs. Crime, on this view, is first a violation of people and relationships and only secondarily a violation of the state's rules. Daly (2016) usefully cautions that restorative justice is best understood as a contemporary justice mechanism with defined participants and aims rather than a vague philosophy, a caution this paper adopts: the interest here is in concrete processes such as facilitated victim offender dialogue and conferencing, wired into the criminal justice system with clear referral routes and legal consequences.

Table 1: Two Lenses on Crime and Justice

Dimension	Conventional retributive process	Restorative process
How crime is defined	A violation of law and an offence against the state	A harm done to people, relationships, and community
Central questions	What law was broken, who did it, what punishment fits	Who was harmed, what do they need, whose obligations are these
Main actors	The state and the accused, mediated by professionals	Victim, offender, and community, with the state as guarantor of rights
Victim's position	Peripheral, mainly a witness for the prosecution	Central participant with a voice in the outcome
Measure of success	Conviction and proportionate punishment	Repair of harm, genuine accountability, reintegration

Note. Adapted from Zehr (2015)

Theoretical Anchors:-

Four theoretical strands give the concept its depth. Christie (1977) argued that modern criminal justice steals conflicts from the people who own them, handing them to lawyers and officials while victims are reduced to bystanders; restorative processes return the conflict, and its resolution, to the parties. Braithwaite's (1989) theory of reintegrative shaming holds that disapproval of wrongdoing reduces reoffending when it is communicated within relationships of respect and followed by gestures of reacceptance, whereas stigmatizing punishment pushes offenders toward criminal subcultures. This mechanism is especially plausible in societies with dense communal ties, a point to which the paper returns when considering rural Bangladesh. Wenzel et al. (2008) add a social psychological account: what victims often need is the restoration of status and shared values, which dialogue and sincere acknowledgment can supply in a way that punishment alone rarely does. Finally, procedural justice research

shows that people obey the law more willingly when they experience legal processes as fair, respectful, and participatory (Tyler, 2006). Restorative processes, done well, are procedural justice in concentrated form.

Principal Models:-

Practice has converged on three main models. Victim offender mediation brings the two parties together with a trained facilitator to discuss the offence, its impact, and reparation, and it carries the longest evaluation record (Umbreit et al., 2004). Family group conferencing widens the circle to families and supporters, and in its New Zealand form it became the statutory default for most youth offending (Morris & Maxwell, 1998). Circle processes, drawn from Indigenous traditions, add community members and sometimes officials to a structured dialogue (UNODC, 2020). All three share defining features: voluntary and informed participation, an offender who accepts responsibility for the essential facts, a facilitated dialogue about harm and needs, and an agreed outcome that typically combines apology, restitution or compensation, and forward-looking undertakings (UNODC, 2020).

The International Normative Framework:-

Restorative justice is embedded in United Nations standards. The Economic and Social Council's Basic Principles on the Use of Restorative Justice Program in Criminal Matters set the guardrails: participation must rest on the free and informed consent of both victim and offender and be revocable at any time, participation must not be treated as evidence of guilt in later proceedings, agreements must contain only reasonable and proportionate obligations, and failure of a restorative process must return the case to the conventional track without prejudice (Economic and Social Council [ECOSOC], 2002). The second edition of the UNODC Handbook consolidates two decades of program experience and stresses the same points, alongside guidance on facilitator training, screening for power imbalance, and case suitability (UNODC, 2020). These instruments matter for Bangladesh because they show that a restorative track is not a departure from international standards but an application of them.

Evidence Showing and its Management:-

The outcome evidence is now substantial. A meta-analysis of 22 studies found that restorative participants reported significantly higher satisfaction, showed better compliance with restitution agreements, and reoffended somewhat less than comparable offenders processed conventionally (Latimer et al., 2005). A Campbell Collaboration systematic review of ten randomized trials of face-to-face restorative conferencing found a modest but consistent reduction in repeat offending, the clearest effects for violent and more serious offences rather than trivial ones, strong victim benefits, and a favorable cost benefit profile (Strang et al., 2013). Sherman and Strang (2007) report that victims who took part in conferences showed reduced post-traumatic stress symptoms and a sharply reduced desire for violent revenge. Large United Kingdom trials found high victim satisfaction and reductions in the frequency of reconviction sufficient to justify the cost of the schemes (Shapland et al., 2011). Two honest qualifications follow the enthusiasm. Effects on reoffending are moderate, not transformative, and they depend on program quality, facilitator skill, and genuine voluntariness (Daly, 2016; Strang et al., 2013). The evidence therefore supports restorative justice as a serious complement and, for defined categories of cases, an alternative first track, not as a cure for everything the penal system does badly.

The Traditional Criminal Justice System in Bangladesh:-

Colonial Architecture Still in Service:-

The formal criminal process in Bangladesh runs on statutes drafted for colonial administration: the Penal Code of 1860, the Evidence Act of 1872, and the Code of Criminal Procedure of 1898. These instruments were designed to secure order for a colonial state, not to serve victims or communities, and they institutionalize the very displacement Christie (1977) described. The state prosecutes; the victim informs and testifies; the outcome is punishment or acquittal. Scholars of South Asian justice have documented how colonizationmarginalized older participatory forums such as the panchayat in India and the shalish in Bengal, replacing them with an adversarial, punishment centred model administered in unfamiliar language and distant buildings (Asadullah et al., 2021; Galanter, 1981). Independence in 1971 changed the constitution of the state, but the procedural spine of criminal justice remained colonial, and it remains so in 2026.

Delay and Backlog:-

The most visible symptom is delay. The pendency figures cited in the introduction describe a docket growing by about 160,000 cases every year since 2008 (Sarkar, 2025). Bangladesh operates with roughly one judge for every ninety thousand or more people, one of the weakest ratios in South Asia (Adnan, 2025; Khalilullah, 2025). Adjournment culture compounds scarcity: procedural rules permit repeated adjournments, and litigation strategy often exploits them, so cases that should take months take years (Khalilullah, 2025). Delay is not a neutral

inconvenience. It destroys evidence, exhausts complainants into abandoning claims or accepting coerced settlements, and converts the presumption of innocence into years of de facto punishment for detained accused persons.

Pretrial Detention and Prison Overcrowding:-

The second symptom sits in the prisons. As noted, 79,081 people were held against a capacity of 43,157 in October 2025, and around three quarters of them were awaiting trial (Dhaka Tribune, 2025; Mia et al., 2025). Space per inmate in many dormitories has fallen from the 36 square feet contemplated under prison rules to roughly 15 square feet (Mia et al., 2025). Overcrowding on this scale defeats any rehabilitative ambition, mixes first time and minor accused with hardened offenders, and turns prisons into what Mia et al. (2025) call breeding grounds for criminal networking. It also kills: the Department of Prisons recorded about 1,300 deaths in custody between 2021 and late 2025 (New Age, 2025). The High Court Division recognized more than two decades ago, in BLAST v Bangladesh (2003), that arrest and remand powers under sections 54 and 167 of the Code of Criminal Procedure were being abused, and it issued safeguards later affirmed by the Appellate Division, yet routine pretrial detention persists.

The Victim's Marginal Place:-

The third symptom is quieter. Victims in the formal process initiate cases, pay informal costs at nearly every step, wait years, and receive, at best, the satisfaction of seeing someone punished. Compensation is exceptional rather than routine. Research on local conflict in Bangladesh shows that what disputants most often want is acknowledgment, restoration of position, and a workable ongoing relationship with the other side, especially where the parties are neighbors or kin (Das & Maru, 2011). The formal system offers none of this, which is one reason the poor so often bypass it altogether (Golub, 2003; Hasle, 2003).

Separating Symptoms from Causes:-

It is worth being precise about what symptoms are and what is cause, because reforms that treat symptoms have repeatedly disappointed. Backlog, overcrowding, and victim alienation are symptoms. The causes lie deeper. First, the procedural design is adversarial and state centered, so nearly every dispute, however small, must pass through police, prosecutors, and judges before any lawful resolution; there is no general statutory off ramp for cases that the parties themselves could resolve. Second, incentives reward contestation: as Braithwaite (2015) observed of Bangladesh, almost no one pleads guilty, partly because lawyers advise against it and partly because admitting responsibility brings no structured benefit, so every case demands a full trial the system cannot supply. Third, resource scarcity, in judges, prosecutors, probation officers, and courtrooms, is chronic (Adnan, 2025; The Financial Express, 2025). Fourth, the legitimate demand for justice keeps growing with population and economic complexity. Adding judges addresses the third cause only. A restorative track addresses the first and second directly, by creating a lawful, supervised route through which suitable cases can exit the adversarial queue with the parties' consent and with harmrepaired.

Restorative Foundations within Bangladesh's Legal and Social Order:-

Shalish and the Sulh Tradition:-

Long before the colonial codes, disputes in Bengal were handled through shalish, a gathering of local elders and respected figures who heard both sides and pressed for a settlement. The term itself derives from the Arabic sulh, meaning peace or reconciliation, and the practice carries the moral weight of an Islamic legal tradition in which amicable settlement is not a second best but an ideal: the Qur'an states plainly that settlement is best (Qur'an 4:128), and classical jurisprudence developed sulh as a recognized mode of ending disputes with the parties' consent (Othman, 2007). Shalish survives everywhere in rural Bangladesh, and studies estimate that a large majority of village disputes never reach any state institution at all (Das & Maru, 2011; Golub, 2003; Wojkowska, 2006). In the Chittagong Hill Tracts, indigenous communities maintain customary justice institutions of their own, adding a further plural layer to the country's dispute resolution order (Asadullah, 2013). In restorative terms, shalish has the right skeleton: local, participatory, dialogue based, oriented to compensation and continued coexistence rather than incarceration.

Its pathologies are equally well documented, and this paper does not romanticize them. Traditional shalish panels are dominated by older, wealthier men; outcomes can track patronage rather than fairness; women often appear only through male relatives and fare badly in matters of dowry, divorce, and violence; and in notorious cases self-appointed panels have imposed degrading extrajudicial punishments in the name of fatwa, practices the superior courts have condemned (Das & Maru, 2011; Golub, 2003; Hasle, 2003). Non-governmentalorganizations responded from the 1980s with modified shalish: the Madaripur Legal Aid Association and others train facilitators, include

women, keep written records, and screen out cases involving serious violence, producing a hybrid that keeps the accessibility of shalish while disciplining its abuses (Golub, 2003). The lesson for restorative reform is double-edged. Cultural fit is genuine, which is a great asset, and capture is a genuine danger, which is why safeguards must be designed in from the start rather than retrofitted.

Village Courts:-

The state's own answer to local disputes is the village court, first created by ordinance in 1976 and reacted in the Village Courts Act 2006. A village court sits in every union parishad, chaired by the elected chairman with two members nominated by each party, and it may try the minor criminal offences and small civil claims listed in the Act's schedule (Village Courts Act, 2006). The 2013 amendment raised its compensation jurisdiction from Tk 25,000 to Tk 75,000, and the Village Courts (Amendment) Act passed on 7 May 2024 raised the ceiling to Tk 300,000 (BSS, 2024). Village courts cannot imprison; their currency is compensation and restoration, which places them closer to the restorative family than to the penal one. Successive phases of the Activating Village Courts in Bangladesh project, run by the Local Government Division with UNDP and European Union support since 2009, report an average user cost of about Tk 233 per case, user satisfaction of 91 percent, 11,669 cases referred down from district courts, and women's share in decision making rising from 2 percent in 2017 to 15 percent in 2021, with a third phase extending activation to more than three thousand additional unions through 2027 (UNDP, n.d.). These are program figures and should be read as such, but they indicate real demand for lawful, local, non-carceral resolution.

NGO Mediation and State Legal Aid:-

A second layer of infrastructure is professionalized mediation. Beyond the NGO program noted above, the state's own legal aid system, established under the Legal Aid Services Act 2000, has moved steadily into dispute resolution: district legal aid offices now conduct mediation, and the government highlights the appointment of experienced mediators and a national legal aid hotline among its backlog reduction measures (Legal Aid Services Act, 2000; The Daily Star, 2026). On the civil side, section 89A of the Code of Civil Procedure makes mediation a formal stage in civil suits, although commentators describe actual practice as timid (Adnan, 2025). The significance for present purposes is institutional: Bangladesh already trains, deploys, and pays for facilitators of consensual settlement inside the justice sector. Extending that capacity to a defined criminal restorative track is an incremental step, not a leap.

Statutory Openings in the Criminal Law:-

Criminal law itself contains restorative openings that predate the vocabulary. Section 345 of the Code of Criminal Procedure permits the compounding of a schedule of offences, some with the court's permission, allowing victims and accused to settle and the prosecution to end (Code of Criminal Procedure, 1898, s. 345). Commentators urging backlog reform point to compounding as an underused tool that could be applied swiftly under judicial oversight (Adnan, 2025). The Probation of Offenders Ordinance 1960 authorizes courts to release suitable offenders under supervision instead of imprisoning them, a power historically neglected but recently promoted through judicial training on non-custodial measures (Probation of Offenders Ordinance, 1960; UNODC, 2025). Most important, the Children Act 2013 introduced, for the first time in Bangladeshi law, an explicit diversion framework: section 48 permits children in conflict with the law to be dealt with outside formal proceedings, section 49 provides for family conferences organized by probation officers, and related provisions govern breach and safeguards (Children Act, 2013, ss. 48 to 51). Justice Imman Ali's authoritative commentary welcomed these provisions while warning that they would remain paper promises until rules, trained officers, and services existed to operate them (Ali, 2013). That warning has aged well: diversion and family conferencing for children exist in law but only patchily in practice, which makes them the natural first site for serious restorative investment.

The IRSOP Experience: Restorative Justice Piloted at Scale:-

Bangladesh has also run a genuine restorative justice programme. Under the project Improvement of the Real Situation of Overcrowding in Prisons, a partnership of the Ministry of Home Affairs with German development cooperation (GIZ) and United Kingdom aid, restorative justice was formally introduced in 2013 alongside a paralegal advisory service and case coordination committees, expanding from five districts toward forty by 2018 (Asadullah & Morrison, 2021; GIZ, n.d.). By December 2015 the programme reported over 9,500 detainees released through paralegal casework, more than 2,600 cases diverted from the courts, and around 5,300 cases handled by restorative facilitators and mediators (GIZ, n.d.). Braithwaite (2015), who observed the programme in Rangpur, described trained community facilitators, run by a women led NGO, conducting restorative circles for minor assaults, theft, dowry demands, and property damage, with police in Rangpur voluntarily referring large numbers of

petty cases to the process because it resolved them faster and more durably than charge and remand. He also recorded the failure modes candidly: in some localities police demanded informal fees to refer cases, which corroded the programme's core advantage of being free, and sustaining quality beyond the pilot districts proved hard (Braithwaite, 2015). Subsequent qualitative research traced how the initiative seeded a graduate course on restorative justice at the University of Dhaka and a small community of trained practitioners, while also exposing tensions over ownership between international agencies, the state, and communities (Asadullah, 2021; Asadullah & Morrison, 2021). The pilot's meaning for policy is straightforward. Restorative justice has been shown to run in Bangladeshi villages, with Bangladeshi facilitators, on Bangladeshi disputes. What it has never had is a statute behind it, stable financing, or systematic evaluation.

Table 2: Existing Mechanisms in Bangladesh Mapped Against Restorative Features

Mechanism	Legal or institutional basis	Restorative features	Principal limitations
Traditional shalish	Custom; no statutory basis	Local participation; dialogue; compensation; reconciliation	Elite capture; gender bias; coercion; occasional unlawful punishments (Das & Maru, 2011; Golub, 2003)
NGO facilitated mediation	NGO program since the 1980s	Trained facilitation; records; women's inclusion; screening	Uneven coverage; donor dependence; weak enforcement (Golub, 2003; Hasle, 2003)
Village courts	Village Courts Act 2006, amended 2013 and 2024	Cheap, quick, local; compensation up to Tk 300,000; lay panels	Minor offences only; chairman dominance; uneven activation (BSS, 2024; UNDP, n.d.)
Compounding of offences	Code of Criminal Procedure 1898, s. 345	Party led settlement recognized by courts	Limited schedule; no facilitated dialogue; coercion risk (Adnan, 2025)
Probation	Probation of Offenders Ordinance 1960	Community based supervision instead of prison	Historically underused; thin probation service (Mia et al., 2025; UNODC, 2025)
Child diversion and family conferencing	Children Act 2013, ss. 48 to 51	Statutory diversion; family group conference; probation oversight	Rules, training, and services still thin (Ali, 2013)
Donor supported restorative justice	IRSOP program, 2013 to 2018	Facilitated victim offender circles; police referral; paralegal links	Pilot scale; no statute; sustainability and fee risks (Braithwaite, 2015; GIZ, n.d.)

Note. Compiled by the author from the sources cited in each row.

Comparative Perspectives:-

New Zealand: Legislating the Restorative Default:-

New Zealand offers the clearest example of restorative justice written into ordinary criminal procedure. The Children, Young Persons, and Their Families Act 1989, now the Oranga Tamariki Act 1989, made the family group conference the primary decision-making forum for most youth offending, with the Youth Court positioned as a backstop rather than the default destination (Oranga Tamariki Act, 1989). Early evaluation showed that the great majority of youth cases were resolved through conferences without formal court orders, that families participated in ways the old courtroom model never allowed, and that victims who attended generally found the process worthwhile (Morris & Maxwell, 1998). For adults, the Sentencing Act 2002 requires courts to take into account any offer of amends and the outcomes of restorative processes, and a 2014 amendment went further by requiring district courts

to adjourn eligible cases after a guilty plea so that suitability for a restorative conference can be assessed where a victim exists and services are available (Sentencing Act, 2002, ss 8, 10, 24A). Three lessons are good. Restorative justice grows when legislation gives it a defined place in ordinary procedure rather than leaving it to ad hoc goodwill. State funded, professionally facilitated services are what turn statutory words into practice. And even in New Zealand, scholars caution that state run conferencing must stay genuinely connected to the communities whose traditions inspired it, a caution that decolonial writing on restorative justice presses with force (Asadullah, 2021).

India: Consensual Endings at Scale:-

India demonstrates that consensual case endings can operate at very large scale inside a South Asian adversarial system. Its criminal procedure has long permitted the compounding of listed offences, plea bargaining was introduced in 2005, and both mechanisms survived the 2023 recodification of criminal procedure. Lok Adalats constituted under the Legal Services Authorities Act 1987 settle enormous volumes of disputes, including compoundable criminal matters, in single sittings (Legal Services Authorities Act, 1987). The Indian experience carries a warning as well as an encouragement: settlement forums that process thousands of cases a day can slide into pressured, assembly line compromise, which is precisely what restorative principles forbid (Asadullah et al., 2021). Volume must never be purchased with consent.

Pakistan and Nepal: Hybrid Community Justice:-

In Khyber Pakhtunkhwa, Pakistan, muslahathi committees hosted in police stations blend the indigenous jirga tradition with a degree of official oversight, and research found them resolving large numbers of disputes, including some connected to serious violence, while also documenting the familiar risks of gender exclusion and elder dominance (Braithwaite & Gohar, 2014). Nepal has institutionalized community mediation rooted in its melmilap tradition through statute and local government structures (Asadullah et al., 2021). Both neighbors show the same pattern visible in Bangladesh: colonial era formal systems coexisting with living community justice traditions, and reformers experimenting with hybrids that keep the accessibility of the old forms while adding safeguards the old forms lacked. The design question for Bangladesh is therefore not whether hybridity is possible but how to regulate it well.

The Case for Restorative Justice in Bangladesh: A Six-Part Justification:-

Normative Justification:-

The first argument is about what justice is for. Victims of crime in Bangladesh currently receive process without repair: years of hearings, informal payments, and, at the end, punishment of the offender or nothing at all. Restorative theory begins with the observation that a crime creates concrete needs, for information, for acknowledgment, for safety, for compensation, and that meeting those needs is a duty of justice, not an optional extra (Zehr, 2015). It also demands more of offenders than passive endurance of punishment: facing the person one has harmed, hearing the consequences, and making amends is a thicker form of accountability than serving time in a crowded ward (Braithwaite, 2002). Christie's (1977) point completes the normative case. Disputes belong first to the people they happen to, and a system that confiscates every conflict, however small, from its owners has taken something it should give back where it safely can.

The Empirical Justification:-

Second, the international evidence reviewed in Section 3.5 shows that well run restorative processes deliver measurable goods: higher victim satisfaction, better compliance with restitution, reduced post-traumatic stress and desire for revenge among victims, and modest but real reductions in reoffending, strongest for more serious interpersonal offences (Latimer et al., 2005; Shapland et al., 2011; Sherman & Strang, 2007; Strang et al., 2013). Bangladesh's own pilot record, though thinly evaluated, points the same way: thousands of disputes resolved by trained facilitators, police in Rangpur voluntarily referring petty cases because outcomes held, and communities reporting relief at a process that was quick, local, and free (Braithwaite, 2015; GIZ, n.d.). No comparable evidence supports the proposition that routine prosecution of minor offences reduces crime in Bangladesh; what it demonstrably produces is delay and pretrial detention (Mia et al., 2025; Sarkar, 2025).

The Cultural and Religious Justification:-

Third, restorative justice fits how most Bangladeshis already resolve most disputes. Shalish is centuries old, and the practitioners who built the country's first formal restorative program described their work as a mixture of shalish and village court practice rather than a foreign transplant (Asadullah & Morrison, 2021). The Islamic legal tradition supplies not merely permission but encouragement: sulh, amicable settlement, is commended in the Qur'an itself, and classical jurists treated reconciliation between disputants as a praiseworthy mode of justice (Othman, 2007;

Qur'an 4:128). Braithwaite's (1989) theory predicts that reintegrative processes work best in societies of dense interdependence, where the disapproval of family and neighbors carries weight and where reacceptance matters; rural Bangladesh is close to the paradigm case. A reform that speaks the moral language people already use has a legitimacy head start that imported institutions never enjoy.

The Constitutional and Legal Justification:-

Fourth, the Constitution promises what the current system fails to deliver. Article 35(3) guarantees a speedy and public trial, Article 31 guarantees the protection of law, and Article 27 guarantees equality before it (Constitution of the People's Republic of Bangladesh, 1972). A docket of 4.6 million pending cases and a prison system in which roughly three quarters of inmates are unconvinced are, in practical effect, standing breaches of those guarantees (Mia et al., 2025; The Daily Star, 2026). A lawful restorative track, by resolving suitable cases in weeks instead of years and keeping minor accused out of remand, advances constitutional rights rather than compromising them. Nor does the principle of consensual case ending require any doctrinal revolution: section 345 of the Code of Criminal Procedure has recognized compounding for over a century, and the Children Act 2013 already authorizes diversion and family conferences (Children Act, 2013, ss 48 to 51; Code of Criminal Procedure, 1898, s 345). The legal system has conceded the principle; what is missing is the architecture, the safeguards, and the will to use it at scale. International standards, through the ECOSOC Basic Principles, supply a ready template for that architecture (ECOSOC, 2002).

The Systemic and Economic Justification:-

Fifth, the arithmetic of the backlog makes some form of demand diversion unavoidable. The net docket has grown by roughly 160,000 cases a year since 2008 despite continuous judicial recruitment (Sarkar, 2025). Even ambitious expansion plans, hundreds of new courts and judge posts, chase a curve that keeps rising (The Daily Star, 2026). If even a tenth of incoming minor criminal matters were resolved restoratively at the police or magistracy stage, tens of thousands of cases a year would leave the queue, freeing judicial time for the serious crime that genuinely requires trial, which is itself a public safety argument. The economic case runs parallel. Every remand prisoner costs the state money and costs a family its earner; village court users resolve disputes for an average outlay of about Tk 233 (UNDP, n.d.), while formal litigation consumes multiples of that in fees, travel, and forgone income, before informal payments are counted (Khalilullah, 2025). The Campbell review concluded that restorative conferencing is more than pays for itself through reduced reoffending alone (Strang et al., 2013). For a justice sector competing for scarce public funds, an intervention that is cheaper per case and better liked by its users deserves a place in the budget.

The Legitimacy and Decolonization Justification:-

Sixth, and least tangible but perhaps most important, a restorative track offers a way to rebuild trust in a justice system that surveys repeatedly find tainted by cost, delay, and bribery (Khalilullah, 2025). Procedural justice research is unambiguous: people accept outcomes and obey the law more readily when they experience the process as respectful and participatory (Tyler, 2006). Restorative processes give participants exactly that experience. There is also a deeper historical register. The adversarial, punishment centered system was imposed on Bengal in the service of colonial administration, displacing participatory forums that communities understood and owned (Asadullah et al., 2021; Galanter, 1981). Recovering and regulating those participatory forms, on modern rights respecting terms, is not nostalgia. It is what decolonial scholars of restorative justice describe as returning justice to the communities it was taken from, with consultation, cultural relevance, and shared resources as the tests of good faith (Asadullah, 2021).

Challenges, Risks, and Necessary Safeguards:-

Gender and Power Imbalance:-

The strongest objection to community-based justice in Bangladesh is drawn from the record of shalish itself. Panels dominated by senior men have too often ratified the interests of the powerful, and women pursuing claims about dowry, maintenance, or violence have fared worst (Das & Maru, 2011; Golub, 2003; Hasle, 2003). Any restorative scheme that simply relabels traditional shalish would import these failures wholesale. The answer is design, not denial: mandatory screening of every referral for power imbalance and safety, accredited facilitators trained on gender dynamics, deliberate recruitment of women facilitators, the right of any party to bring a support person or legal adviser, and the exclusion of intimate partner and sexual violence from the ordinary restorative track. International guidance treats such screening and exclusion rules as core requirements rather than optional refinements (UNODC, 2020). The IRSOP experience shows this is achievable locally: the Rangpur program praised by observers was run by a women led organization with a majority female board (Braithwaite, 2015).

Elite Capture and Unlawful Sanctions:-

A related risk is captured by local elites, and the imposition of outcomes no legal system can tolerate. Bangladesh's superior courts have had to confront degrading extrajudicial punishments imposed by self-styled village tribunals, and no restorative statute can leave room for their return. The safeguards are straightforward to state. Lawful outcomes must be limited to apology, restitution, compensation, community service, and forward-looking undertakings; any corporal, degrading, or status-based sanction must be void and punishable; agreements must be recorded and registered with a supervising authority, ideally the local magistracy or the district legal aid office; and a complaint route must exist for participants who felt coerced. Registration also answers the enforcement question, since a recorded agreement can be given the effect of a compounding order or a compromise decree within existing law (Code of Criminal Procedure, 1898, s 345).

Due Process, Voluntariness, and Net Widening:-

Restorative justice sits on consent, and consent can be manufactured. Three protections from the ECOSOC Basic Principles must be nonnegotiable in any Bangladeshi statute: participation requires the free and informed agreement of both victim and offender and may be withdrawn at any time; participation and anything said in the process cannot be used as evidence of guilt in subsequent proceedings; and the failure of a restorative process must return the case to the conventional track without prejudice (ECOSOC, 2002). A quieter danger is net widening, the tendency of new informal mechanisms to sweep in trivial matters the police would previously have ignored, thereby expanding rather than shrinking state control. The remedies are statutory eligibility criteria, documented referral decisions, and published data on what enters and leaves the track. The Rangpur finding that some police demanded fees for referrals is a standing reminder that gatekeepers need supervision (Braithwaite, 2015): the service must be free by law, and referral conduct must be auditable.

Case Suitability and Principled Exclusions:-

Not every case belongs in a circle. A defensible starting scope for adults would track the existing compoundable schedule under section 345, minor property and public order offences, and neighborhood assaults without grievous injury, while excluding offences against the state, organized and economic crime, serious violence, and sexual offences. For children in conflict with the law, the Children Act 2013 already defines the diversion and family conference space, and operationalizing it is the priority (Ali, 2013; Children Act, 2013). Exclusion of gender-based violence from the ordinary track should be explicit at the outset, with any future extension contingent on specialist facilitation, victim advocacy, and independent evaluation, reflecting international caution in this area (UNODC, 2020). Scope can widen later; credibility lost to an early scandal never fully returns.

Capacity, Quality, and the Evaluation Gap:-

Finally, the mundane constraints. Bangladesh's probation service is thin, facilitator training has depended on donor projects, and the peer reviewed evaluation base for local restorative practice remains small (Asadullah & Morrison, 2021; Mia et al., 2025). A credible program therefore needs an accreditation body for facilitators, a training pipeline through the Judicial Administration Training Institute, the police academies, and the University of Dhaka's restorative justice teaching that grew out of the pilot era (Asadullah, 2021), and a monitoring system that publishes caseloads, completion rates, agreement compliance, and participant feedback. Independent researchers should be commissioned from the first year, so that scale up decisions rest on evidence rather than on program self-description. The absence of such evaluation after the IRSOP pilots is one reason a decade of practical experience produced so little institutional memory (Asadullah & Morrison, 2021).

Policy Recommendations: A Phased Pathway:-

The analysis supports a deliberately phased approach rather than a single legislative leap. In the first phase, covering roughly the next two years, government can act almost entirely within existing law. The rules and standing orders needed to operate diversion and family conferences under sections 48 to 51 of the Children Act 2013 should be completed, budgeted, and paired with recruitment and training of probation officers, because child justice is where the statutory mandate is clearest and the human cost of inaction highest (Ali, 2013; Children Act, 2013). In parallel, the Supreme Court can issue a practice direction encouraging magistrates to use section 345 proactively in eligible cases and to refer willing parties to facilitate dialogue before disposal, echoing recent expert proposals to use the law already on the books (Adnan, 2025). A court annexed adult pilot should run in two or three districts, delivered through district legal aid offices and trained facilitators, with the National Legal Aid Services Organizationas institutional home, since it already mediates disputes nationwide (Legal Aid Services Act, 2000; The Daily Star, 2026). Training modules on restorative facilitation should enter the curricula of the Judicial Administration Training

Institute and police training institutions, building on the non-custodial measures work already begun with UNODC (UNODC, 2025).

The second phase, roughly years two to five, should deliver a dedicated Restorative Justice Act. The statute should define restorative processes and their guiding principles in line with the ECOSOC standards; specify referral points at the police station, the prosecution stage, the court before and after conviction, and the prison for prerelease conferencing; fix eligibility and exclusion criteria of the kind outlined in Section 8.4; guarantee voluntariness, confidentiality, inadmissibility of process statements, and cost free access; prescribe lawful outcomes and prohibit degrading ones; create a facilitator accreditation and complaints regime; and give registered agreements defined legal effect through compounding orders and enforceable undertakings (ECOSOC, 2002; UNODC, 2020). The Act should also build the interface with village courts and legal aid mediation so that the three channels reinforce rather than duplicate one another, and it should place a statutory duty on the ministry responsible to publish annual data and commission independent evaluation.

The third phase, beyond year five, is expansion conditioned on evidence: widening the eligible offence list, extending prison-based conferencing, and considering carefully safeguarded models for categories initially excluded, only where evaluation supports it. Throughout all phases, community consultation must be genuine rather than ceremonial. The decolonial literature on restorative justice in Bangladesh offers a usable test: consultation before design, cultural relevance in process, and resource sharing with the community organizations that carry the work (Asadullah, 2020, 2021). A program that fails that test will be one more project; a program that passes it can become an institution.

Conclusion:-

This paper asked whether restorative justice could serve as an alternative to the traditional criminal justice process in Bangladesh, and the answer it defends is a qualified but firm yes: as a lawful, supervised first track for suitable categories of cases, not as a replacement for criminal courts. The qualification matters. Serious violence, sexual offences, and crimes of the powerful belong in courtrooms with full adversarial protection, and the paper has been candid that community justice in Bangladesh carries documented risks of gender bias, elite capture, and coerced consent that only deliberate design can contain. The firmness matters more. A system holding 4.6 million pending cases and imprisoning nearly twice its capacity, three quarters of them unconvinced, is not protecting due process; it is rationing it (Dhaka Tribune, 2025; The Daily Star, 2026). Against that reality, a restorative track rests on unusually strong foundations in Bangladesh: a living cultural practice in shalish, a religious tradition that honorssulh, statutory beachheads in the Children Act, the compounding provisions, and the village courts, a decade of piloted practice with trained local facilitators, and an international evidence base showing that victims are better served and offenders somewhat less likely to return. Few countries contemplating restorative reform start with so much already in place. What Bangladesh has lacked is the connective tissue: a statute that dignifies the practice, safeguards that discipline it, institutions that fund and evaluate it, and a justice leadership willing to say that returning suitable conflicts to the people who own them is not a retreat from the rule of law but a fulfilment of the Constitution's promise of speedy, equal, and humane justice. The reform conversation opened since 2024 will not stay open forever. It should not close without a restorative justice law on the table.

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