

Reprint

ISSN 1997-2571 (Web Version)

Journal of Innovation & Development Strategy (JIDS)

(J. Innov. Dev. Strategy)

Volume: 7

Issue: 1

April 2013

J. Innov. Dev. Strategy 7(1): 24-27 (April 2013)

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ON ITS IMPLEMENTATION PROCESS**

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JIDS** issn 1997-2571, HQ:19-10 central place, saskatoon, saskatchewan, s7n 2s2, Canada

STUDIES ON THE PIECEMEAL CHANGES IN INDIVIDUAL ACT(S) AND ITS EFFECTS ON ITS IMPLEMENTATION PROCESS

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Accepted for publication 5 March 2013

ABSTRACT

Islam GS (2013) Studies on the piecemeal changes in individual act(s) and its effects on its implementation process. *J. Innov. Dev. Strategy*. 7(1), 24-27.

In this paper here attempted to link piecemeal changes to alternative tradition in Bangladeshi political thinking. This tradition legitimizes local decision making by reference to the smallness of local communities, in contradistinction to the largeness of extended republic. It suggests that the proper mode of ensuring reasonableness, in the sense of fairness and due consideration, is the refinement of the local potential for exit and voice, rather than the attempt to make a local body act like a court when it cannot act like a large legislature. As the elements of a new reasonableness standard, the test of due consideration should be based on popular participation in the steps of a mediation process, and the test of fairness should be based on predictability—the latter test made effective particularly by the opportunity for exit. The data were collected from Dhaka of Bangladesh from 40 respondents by interview methods. Findings reveal that the law portions not dealt with proper case was related to less publicity of the actions and benefits followed by very poor drafting. Political parties contributed only 8% in the reports. The weak sectors of corporate law implementation was found to be the quality of the specific persons made responsible for perform the job making it sufficiently non vulnerable and accounting the options or risk factors. the results on piecemeal revision of laws and weakness in thin implementation is the very scarce publication of the documents followed by formal by formal enacting at many ordinances and regulations/rules etc. It was conclude prioritizing regarding integration in piecemeal changes for the Acts like Criminal Law (Amend) Act; Price Control and Anti-Hoarding Act, 1953; and the Essential Commodities Act (1957) and changes in Bangladesh Constitution covering 13th to 15th Amendments.

Key words: *piecemeal changes of Act(s), integration of law, parliament members*

INTRODUCTION

It is known to all that the Supreme Court of Bangladesh is the highest court of law in Bangladesh. It composes 2 types of Higher Courts and out of which one is namely known as the High Court Division and the other is Appellate Division (the highest court). Both the courts aforementioned are created as per the Part VI Chapter I of the Constitution of Bangladesh adopted in 1972 (Bangladesh Gazette 2012).

This is also the office of the Chief Justice, Appellate Division Justices, and High Court Division Justices of Bangladesh. As per the yearly Calendar of 2013 for both the High Court Division and Appellate Division of Supreme Court of Bangladesh, published by the Deputy Director, Government Printing Press, Tejgaon, Dhaka, there are 6 Justices in Appellate Division and 97 Justices in High Court Division, though sometimes the number of total Justices varies. It is to be mentioned that the Proclamation of Independence is the first constitutional document of Bangladesh. This Proclamation of Independence was also considered as our Constitution until we did not have our constitution. Justice Shahabuddin Ahmed, the former President of the People's Republic of Bangladesh stated that the Administrative Foundation of Independent and Sovereign Bangladesh was founded on 10th April 1971 and this is the day on which this Proclamation of Independence taken place which is known as ad interim Constitution of Bangladesh also. Bangladesh has consequently a relatively short history with respect to the amendment process, one which began in 19th century, almost two months before official statehood. Since statehood, the voters have considered proposed piecemeal amendments and one entire revision of the 1910 constitution. They have altered that document 161 times, all by the piecemeal amendment process. The legislature has been willing to propose amendments to the people, and voters have been willing to look favorably upon them. At the same time, proposals for a new constitutional convention have been looked upon by the legislature with a general lack of enthusiasm that is matched by a demonstrable lack of concern by the voter. Conventions are costly, uncertain creatures. Perhaps the 1996 change, authorizing a constitutional commission to recommend revision of entire articles by a single amendment, offers an intermediate solution. For the foreseeable future, however, constitutional change will remain the province of piecemeal amendment.

According to the then Constitutional Framework President of the People's Republic of Bangladesh held the absolute power to govern the country. The then President of the People's Republic of Bangladesh on 10th January 1972 a law which is known as The Provisional Constitutional Order 1972. Thereafter, the Constituent Assembly of Bangladesh finally presented us the Constitution of Bangladesh on 16th December 1972 which is the highest source of our law also. Besides our Constitution there are also some other sources of law which are as follows: Primary Law (Act of Parliament), Secondary Law (not passed by the Parliament), Precedent (law passed by the High Court Divisions and the Appellate Division), Customary Law, Provision, Statutory Rules and Orders (S.R.O), Ordinance, Common Law (traditional law), Law of Nature, Religion, Treaty, Conventions, International Law and Moral Law etc.

Though our Constitution is the Prime Law of our country, it is found that from 15th July 1973 up to 2011 there are 15 amendments took place in our Constitution. If we look into it, we will find that most of the changes are done which are very much small changes on any particular issue. In this regard, there is a very reputed comment; all of the few essential amendments adopted have been made through the simpler and direct method. The method to which he was referring is termed piecemeal amendment. The fact that the citizens of Bangladesh have viewed the immutability of a written constitution differently than the delegates supports the admonition of Prime minister, who, in 2013, maintained that no constitution can be a perpetual law. In this paper here attempted to link piecemeal changes to "alternative tradition" in Bangladeshi political thinking. This tradition legitimizes local decision making by reference to the smallness of local communities, in contradistinction to the largeness of extended republic. In the context the present piece of research was formulated on the piecemeal changes in individual Act(s) and its effects on its implementation process with the specific objectives of to know the status of the changes in Act(s) over time of the constitution of Bangladesh, to identify the causes that can be taken to enhance the efficiency of implementation of piecemeal changes and to find out specific interaction which hinders the legislation of law.

MATERIALS AND METHODS

Research Design: The research design framework was finalized and implemented as per recommendations and guidelines of Caenegem (1988) and Graham (1996).

The study is focused on exploring the existing problems derived due to piecemeal changes in individual Act(s) by the Parliament. Hence descriptive and analytical research designs have been chosen.

Distribution of Study Population: Study population has been selected from administrative side, expert on this very issue, people's representative, local elites who are involved in individual Act(s), stakeholders of informal changes and others closely associated with law making process.

Content Analysis: Content analysis is a documentary method that aims at a qualitative and/or quantitative analysis of the content of texts, pictures, films or different forms communication.

Data Processing and Analysis: Partial data of questionnaire survey were processed using simple mathematics (Alexander 1952).

Endeavor was made firstly to unleash the potential of piecemeal changes and to rationalize its institutionalization; secondly to detect the challenges, prospects and finally to put some light on to overcome the barriers.

RESULTS AND DISCUSSION

This chapter deals with the results and discussion of the present study. Relevant data is presented in graph. At first, the findings of the study are and then analyzed in the descriptive and contextual methods and presented graphical forms.

Inappropriate actions

The results obtained on the inappropriate process steps of law making are given in the Fig. 1. A standard economic argument for piecemeal regulation is that it prevents adverse "spillover" effects of individual Act(s), and promotes beneficial uses where individual transactions would not. Since we have no good way to prevention the contemporary incidents, the only tolerable solution may be to permit government to make appropriate thinking for changing Act, so long as the adjustments are carefully considered and reasonably foreseeable by Governments who can to some degree choose among communities. The results show that the law portions not dealt with proper case was related to less publicity of the actions and benefits followed by very poor drafting. Political parties contributed only 8% in the process. It indicates that laws given for action were less participatory which resulted to less effectiveness of the laws for the target and mass people.

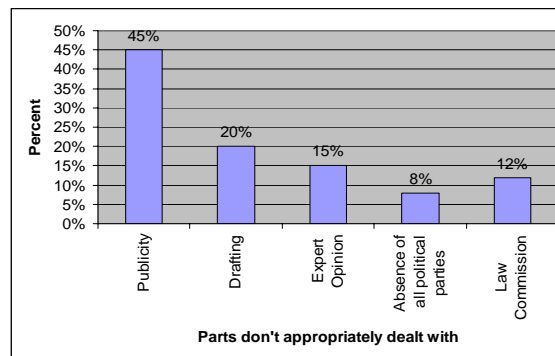


Fig. 1. Actions inappropriately dealt with in the law making process

Integrated strength of sectors

The research data collected and analyzed on different sectors of law making and their integrations are given in the Fig. 2. The weak sectors of corporate law implementation was found to be the quality of the specific persons made responsible for perform the job making it sufficiently non vulnerable and accounting the options or risk factors. Similar problems were also reported by many law researchers and greed that only integration of different sectors can resolve the situation gradually (Benjamin and Cardozo, 1921; and Charles 1910).

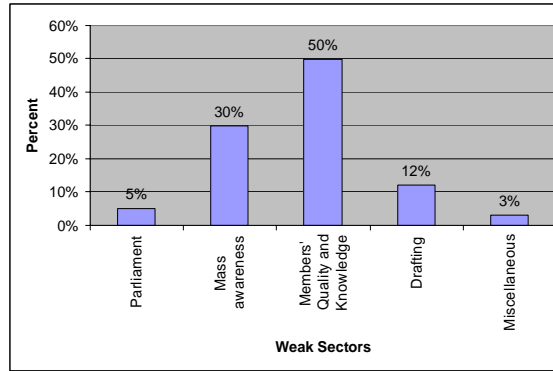


Fig. 2. Weak Sectors in the law making process

Lacking of enacting laws

The main reason as stated by the lawyer respondents (Fig. 3) for the piecemeal revision problems were less discussion with respective persons by 35% openly or methodically. This is followed by lack of man's participation being 23% including beneficiaries. It was reported by Jeffery, (1957) and Jethro (2008) that this type of lacking create difficult problems in the process of enacting laws through the Parliamentary Bodies.

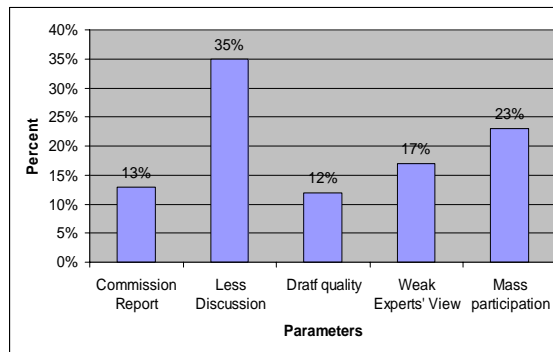


Fig. 3. Parts which is not followed in enacting laws

Weakness of the law making process

The making of law through the parliament and the Ministries has specific procedure. As suggested by Charles, (2008) it is of much importance to study the implications to operate a smooth law making process.

The current results got through these studies are given in the Fig. 4. It may be seen from the results on piecemeal revision of laws and weakness in thin implementation is the very scarce publication of the documents followed by formal by formal enacting at many ordinances and regulations/rules etc.

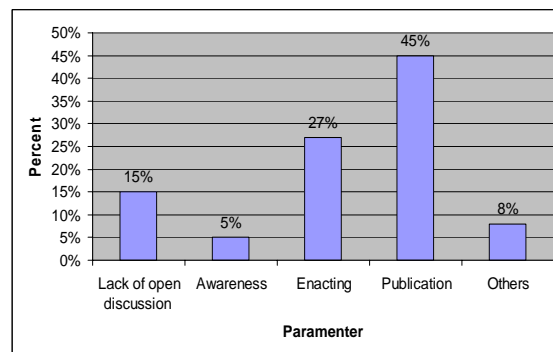


Fig. 4. Weakness in enacting law

CONCLUSION

The results showed that the constitution of Bangladesh has been revised by 15 times as of now and each revision contained 3-5 piecemeal changes in its rules and regulations/laws and by laws/statutes and special orders. The main causes which reduced the efficiency of implementation of the Act(s) and other functions were found to be non-publicity of the legal materials and less knowledgeable interactions and interpretation by concerned and lack of mass participation by the respective beneficiaries. The interactions which found to be responsible for less activation of legal reforms in the process of legislation of laws was less critical discussion and lack of publication by the appropriate authorities for diversified legal implications. In light of the findings obtained from the present study the conclude mentioning that in depth analysis of law and publication is needed before piecemeal changes. Legal materials are to be published before piecemeal changes. The members of our parliament required to be more efficient in enacting laws. The process of legislation of laws are should be discussed critically by the parliament members. The specific conclusion regarding integration in piecemeal changes include the Acts like Criminal Law (Amendment) Act; Essential Articles (Price Control and Anti-Hoarding) Act, 1953; and the Essential Commodities Act (Act III of 1957) and several revisions of Bangladesh Constitution changes covering 13th to 15th Amendments.

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