

## **Present Scenario of Legal Aid in Bangladesh: An Overview**

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**Abstract:** Every injustice acts as a barrier to justice. If the nation were unable to provide justice to all of its residents, an injustice might have happened. The court system of common law countries is dominated by lawyers. Now, the judicial adjudication is very costly and not affordable for the poor sectors of the society. Every litigant needs a significant sum of money from the beginning to the finish of the legal process. The poor and indigent litigant are seeking justice but they cannot get appropriate financial and adequate logistic support from society. Legal aid helps those people who are staying in margin line of the society due to various socio-economic conditions.

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### **I. Introduction:**

Legal aid is provided at government expense to indigent and poor people. Under Article 6(1) of European Convention on Human Rights everyone has the universal right is 'to a fair ... hearing' in the purpose of civil rights and obligations or of any criminal allegation. This assistance is provided in civil, criminal and family cases. Legal assistance is offered to impoverished and indigent people at the expense of the government. These services are offered in family law, criminal law, and civil law cases. If women, men, or children cannot file a lawsuit due to financial constraints or are imprisoned without a trial, the government will pay for their legal representation. Now, this is the slogan or motto of our government-

“The right to justice for the poor and miserable people is a promise of the present government.”

The Bangladesh Government observes “National Legal Aid Day” on 28<sup>th</sup> April.

**Purpose of the study:** The Constitution of the People’s Republic of Bangladesh is committed to remove all sorts of discrimination among the people. For this reason, the Constitution of Bangladesh inserted some important provisions. Such as preamble, Art. 14-Emancipation of peasants and workers, Art. 31, Art. 35(3). Universal Declaration of Human Rights, 1948 Art. 7, 8 and 10 also has same types of provisions. According to Art. 14 of the International Covenant on Civil and Political Rights provides that all peoples shall be equal before the courts and tribunals. Therefore, it is essential to make available legal aid facilities for those who are incapable to seek justice owing to monetary insolvency, poverty, helplessness, and other socio-economic situations. Legal aid activities will give legal assurance to all miserable people.

**Definition of Legal Aid:** Providing necessary assistance in legal matters to helpless and poor people at government expense is called government legal aid. The litigants who are unable of looking for justice due to monetary insolvency, poverty, vulnerability and for numerous socio-economic circumstances for getting legal assistance and make process for providing legal assistance.

According to the Cambridge Dictionary- legal aid means a system of providing free assistance about the law and practical help with legal matters for people who are too poor to pay for it.

According to Merriam Webster -legal aid provided by an organization established specially to assist the legal wants of the deprived.

According to Collins COBUILD Advanced Learner’s Dictionary- Legal aid is currency given by the government or another organization to individuals who cannot afford to pay for a lawyer.)

According to Legalaidmaltal.gov.mt- Legal aid is the provision of assistance to low-income people who are unable to afford legal representation and access to the court system.

A legal aid, in the accurate sense of the words, brings the support providing to feeble parts of the society in the safety of their rights and privileges under the law and constitution. [Khair. S, 2008.]

The New Encyclopedia Britannica defines a legal aid as the specialized legal help given, either free or for a minimal amount, to needy peoples in essential of such supports. [The New Encyclopedia Britannica, Vol. VI, P.122]

According to the Legal Aid Services Act, 2000, Section 2(a) -Legal aid means the support in terms of legal advice, lawyers' fees, lawsuit expenses and other related expenses, provided to the economically destitute peoples including those who, for numerous socio-economic considerations, are incapable to access justice.

According to Wikipedia-Legal aid is vital to assuring equal access to justice for all, as provided for by Article 6.3 of the European Convention on Human Rights about criminal law cases. Particularly for peoples who do not have adequate monetary means, the provision of legal aid to clients by governments rises the possibility, within court proceedings, of being supported by legal specialists for free or at a lesser fee, or of getting fiscal aid.

### **Existing laws in our country:**

#### **The Constitution of the People's Republic of Bangladesh**

According to Article 7 of the Universal Declaration of Human Rights, 1948-all human beings are equal before law and they have enjoyed equal protection of law without any sorts of discrimination. The Constitution of the People's Republic of Bangladesh has declared that one of the main objectives of the State is to establish such a society where equality of justice would be ensured for all peoples. State shall be responsible for removing all sorts of exploitation from regressive parts of the society. Article 27 of the Constitution of the People's Republic of Bangladesh, 1972 states equality before law. 'Equal before Law' indicates the absence of any different treat to any specific in his or her favor. The expression 'equal protection of law' is reliant on and built on equal before law as one cannot be got without the other. The residents of Bangladesh have the absolute right to be preserved in accordance with law and they have been prosecuted on speedy and fair trial.

#### **Acid Niontron Ain, 2002**

Section 8 (c) offers that the person who are the sufferers of acid violence then it is the responsibility to the council need to deliver prescribed policy regarding their treatment, restoration and legal aid and to take measures for its implementation and monitoring.

#### **The Code of Civil Procedure, 1908**

In case of civil matters, Order XXXIII of the Code of Civil Procedure, 1908 (CPC) deals with the 'pauper' suit. The Conscious Law Dictionary says that a pauper, is a poor person specially one so needy as to depend on assistance for care or one supported by some public provisions; one so poor that he must be maintained at the public expenditure.

But Explanation to rule 1 of Order XXXIII of the Code of Civil Procedure, 1908 offers that a person is a "pauper" when he is not had of adequate means to enable him to pay the free given by law for the complaint in such suit, where no such payment is fixed, when he is not enabled to property worth five thousand taka other than his essential wearing apparel and subject matter of the suit.

There are certain rules under which it is determined that the person wanting to file a pauper suit is actually a needy or deprived person or not.

The solvency of a petitioner is the only question to determine whether the petitioner would be permitted to sue as forma pauperis.

#### **The Code of Criminal Procedure, 1898**

According to section 340 of the Code of Criminal Procedure, 1898 deals the right of individual to defend against whom proceedings are started and says that an accused should be defended by an attorney and he must give the charges and nothing more. The Supreme Court of India observed on mentioning on section 340 (1) of the Code of Criminal Procedure, 1898, that the right deliberated by section 340 (1) does not spread to a right in an accused person to be provided with an attorney by the State, or by the police department or by the Magistrate. This right is specified to him for asking by a lawyer if he desires to occupy one and to lodge one himself or get his relations to occupy one for him. The accused person will be taken necessary supports from the duty magistrate.

In the case of Clarence Earl Gideon Vs. Wainwright, 1963, the American Supreme Court has given the right to defend through a lawyer foreverly undefended accused by the State expenditure. The assistance of council shall be provided for the accused in all criminal prosecutions.

#### **The Bangladesh Legal Aid Act 2000 and the Legal Aid Rules 2014**

Bangladesh Government was enacted the Legal Aid Services Act 2000 for ensuring access to justice of poor and indigent citizens. This Act offers legal aid to the indigent applicants who are unable of taking justice due to monetary crisis, poverty, vulnerability and also for numerous socio-economic situations. Then National

Legal Aid Services Organization was established to implement the government legal aid program throughout the country. The general direction and administration of the affairs and functions of NLASO is vested in the National Board of Management which consists of 19 members and is chaired by Honourable Minister, Ministry of Law, Justice and Parliamentary Affairs. There are 64 District Legal Aid Committee (DLAC) through which NLASO implements the government legal aid program at the district level. DLAC maintains a legal aid fund allocated by the government which is spent for poor litigants upon their applications. There are *Upazila* and Union level committees also working to spread the legal aid program at the grass root level.

#### **Who Can Apply for Legal Aid:**

Under Rule 2 of Legal Aid Services Rules 2014 the subsequent groups of persons are considered as qualified to apply for the legal aid;

1. (a) The person who is insolvent or economically insolvent person whose yearly income is less than Tk.1,50,000/- for Legal Aid in Supreme Court and Tk.1,00,000/- for Legal Aid in any other Court.
- (b) Physically disabled, partially disabled, unwaged person.
- (c) Freedom fighter whose yearly income is less than Tk. 1,50,000/- and
- (d) any wage earner whose yearly income is less than Tk.1,00,000/-
2. Whatsoever different mentioned in sub rule-1 the subsequent person shall be eligible to legal aid;
  - (a) Any child.
  - (b) Any person who is victimized of human trafficking.
  - (c) Any female or child who has endured physical, mental, or sexual abuse.
  - (d) Anyone who lacks a home or is homeless.
  - (e) Any individual who belongs to a racial, ethnic, or community group that is underrepresented.
  - (f) Anyone who has experienced or is at risk of experiencing domestic abuse.
  - (g) Recipients of old-age benefits.
  - (h) A mother who is unemployed and has a VGD card.
  - (i) women and children who have suffered acid burns at the hands of criminals.
  - (j) people of Adarsha Gram who own land or a house.
  - (k) The group includes financially strapped widows, deplorable women, and wives who have been left behind.
  - (l) The handicapped.
  - (m) People that the institution determines are eligible for legal aid due to their financial inability, sense of powerlessness, or low socioeconomic standing.
  - (n) The cost of hiring a lawyer to offer their own case is prohibitive for prisoners who are incarcerated without being prosecuted in court.
  - (o) persons who have been adjudged defenseless or insolvent by a court.
  - (p) People who the jail administration has suggested, deemed insolvent, or deemed helpless.
  - (q) Any other individual who has been deemed to be incapable of the National Board of Legal Aid or, in some cases, the District Legal Aid Committee must be contacted with any requests for legal assistance. If the applicant feels that their application was unfairly rejected by the District Committee, they may seek to appeal to the National Legal Aid Board within 60 days after the District Committee's notification of its choice. [ Section 10 of the Legal Aid Service Act, 2000]

#### **How to Apply for Legal Aid:**

The National Board of Legal Aid or the District Legal Aid Committee has taken applications among the legal aid's seekers. The person whose application is rejected by the District Committee; he may get the chance of an appeal to the National Legal Aid Board within 60 days from the date of such rejection. In case of appeal the Board decision shall be final. [Section 16 of the Legal Aid Service Act, 2000]

#### **Administration of Legal Aid in Bangladesh**

The *Aingoto Sohqyota Prodan Ain* broadly delivers for the decentralization of works in the national and the district level. The presence of National Legal Aid Board is for national level, District Legal Aid Committees are at the district level, in the *Upazilla* or Thana level there are the *Upazilla* Legal Aid Committees and at the Union level, there are provisions for the Union Legal Aid Committees.

#### **National Legal Aid Board:**

The Ministry of Law, Justice and Parliamentary Affairs has constituted National Legal Aid Services Organization for giving legal assistance to indigent people. The National Legal Aid Board is a statutory organization whose Head Office is in Dhaka. The Government may establish necessary branch office. Following members are in the National Board of Management: [Section-6(1) The Legal Aid Services Act, 2000]

- 1) The minister of the Ministry of Law, Justice and Parliamentary Affairs who will also be the Chairman of the Board of Governors.
- 2) Two members of parliament one of whom is from the Govt. ruling party and the other is from the opposite party in the parliament, both of whom will be nominated by the Speaker of the *JatyaSangshad*.
- 3) The Attorney General for Bangladesh.
- 4) The Secretary of the Ministry of Law, Justice Parliamentary Affairs.
- 5) The Secretary of the Ministry of Home Affairs.
- 6) The Secretary of the Ministry of Social Welfare.
- 7) The Inspector General of Police.
- 8) The Inspector General of jail.
- 9) The Vice-Chairman of Bangladesh Bar Council.
- 10) The President of the Supreme Court Bar Association.
- 11) The Chairman of the National Women Organization.
- 12) Representatives of three NGOs, dealing with the Law and Human Rights nominated by the Govt. and who have contributed in different districts.
- 13) Representatives of three women organizations nominated by the Govt. and who have contributed in different districts.
- 14) Director, who will be the Secretary of this Board.

#### **Functions of the National Board:**

An institutional structure for the management of legal assistance at the national and local levels is set forth in the Legal Aid Service Act of 2000. The National Legal Aid Board will primarily serve as a policy-making authority and carry out the following duties in accordance with Section 7 of the Act: [Section 7 of the Legal Aid Services Act of 2000]

- (a) to set processes for providing legal aid and to establish standards for determining the eligibility of litigants who are unable to seek justice due to financial insolvency, destitution, helplessness, and other socioeconomic conditions;
- (b) to make preparations with a view to providing legal support;
- (c) in order to run initiatives for education and research, as well as to give legal aid;
- (d) planning for extensive legal assistance advertising to be aired on radio, television, in newspapers, and in other media;
- (e) to consider the applications that the District Committees turned down;
- (f) to monitor, control, and review the District Committees' actions;
- (g) to hold seminars and symposiums as well as distribute booklets with laws, rules, and other information in order to take the necessary actions to increase public awareness of legal help and responsibility;
- (h) to take whatever action is required for carrying out the aforementioned duties and activities.

#### **Meeting of the Board of Governors**

The Chairman of the Board of Governors may call the meeting at any place at any time at least one meeting of the Board shall be executed in every three months. All meetings of the Board shall be presided over by the Chairman and in his absence, anybody appointed by him shall perform his duties. The quorum of the meeting will be fulfilled by one-third of the total number of the members. No quorum shall be required for an adjourned meeting. In such meetings all members will have a single vote. [Section-8, The Legal Aid Services Act, 2000]

#### **District Legal Aid Committee**

The District Legal Aid Committee (District Committee) is only responsible to provide legal aids at grass root level subject to the accessibility of funds from the government. The committee shall invite application from the seekers of legal aid, screen the applications, determine the criteria for proviso of legal aid and finally provide the legal aids. The District Legal Aid Committee is constituted by Sec-9, the Legal Aid Act 2000:

- 1) The District Judge who he will be the Chairman;
- 2) The District Magistrate;
- 3) The Superintendent of Police of the District;
- 4) The Jail Superintendent of the District;
- 5) The Social Welfare Officer of the District, if any;
- 6) The Women and Children Officer of the District, if any;
- 7) The Chairman of the National Women Organization or his nominee;
- 8) The President of District Bar Association;
- 9) The Govt. Pleader of the District;

- 10) The District Public Prosecutor;
- 11) The Inspector of the District Civil Jail;
- 12) One representative of the NGO nominated by the District Women Association;
- 13) The General Secretary of the District Bar Association, who will also be the member secretary of the organization;
- 14) The Metropolitan Magistrate and the Metropolitan Police Superintendent will also be the members of the District Legal Aid Committee where there is a metropolitan city district.

#### **Duties and Responsibilities of the District Committee**

The District Legal Aid Committee is responsible for performing the following duties: [Sec-10, the Legal Aid Act 2000]

- (a) to give legal aid so long as possible by considering the application or petition of the litigants who are incapable of seeking justice due to financial insolvency, destitution, helplessness, and for various socioeconomic conditions following the criteria determined and policies made by the Organization;
- (b) in the case of application or petition granted, to determine the types and terms of legal aid to be given to the applicant or petitioner;
- (c) to make a plan and take projects for implementing the legal aid programs in the district level;
- (d) to take necessary steps for creating awareness among the people about legal aid in the district level;
- (dd) to give the legal assistance considering the petitions or recommendations sent by the *Upazilla* or Union Committee;
- (e) to perform other duties conferred by the Board;
- (f) to do any other act necessary for performing the aforesaid duties and functions.

#### **The Meeting of the District Committee**

The Chairman of the District Committee may call the meeting at any place at any time in every one month. All meetings of the Committee shall be presided over by the Chairman and in his absence, anybody appointed by him shall perform his duties. To fulfill the quorum of the meeting one-third of the total number of the members will be needed.

**The Upazila Committee, the Union Committee:** The *Upazila* Committee and Union Committee will consist with one Chairman and 14 other members. The *Upazila* Committee and Union Committee shall express all the issues relating to the subsequent rules such as the qualifications, removal, resignation, etc. of the Chairman and members shall be determined by regulations. The *Upazila* Committee and Union Committee of the Organization shall be determined the duties, functions and procedure of meeting of by regulations.

#### **Legal aid providing NGOs in Bangladesh**

Although many NGOs strongly demand themselves to be legal aid providers, but practically a few numbers of NGOs are found to work in the field level. Such most remarkable NGOs whose contribution to legal aid approach is undeniable in Bangladesh. Legal aid relating activities of NGOs have created a new venture. The legal aid program oriented some leading NGOs are *Ain o Salish Kendro* (ASK), Bangladesh Legal Aid and Services Trust (BLAST), Madaripur Legal Aid Association (MLAA), Bangladesh Rural Advancement Committee (BRAC), Bangladesh National Woman Lawyers' Association (BNWLA) etc. Other NGOs also conduct simultaneously legal aid programs and additional routine programs for the poor and disregarded or diminished parts of the society.

**Positive Aspect of legal Aid:** Legal aid has a great significance to bring justice for all indigent people. The ability of the citizens of the state depends on various socio-economic conditions. That's why everyone cannot take part in judicial proceedings. The sacred duty of every state to ensure justice of indigent litigants. For this reason, the government has adopted all available legal aid initiatives. Now, every citizen can get proper legal remedy by following steps of legal aid. This legal aid service will remove all sorts of discrimination among the people.

Everybody has a right to self-defense before a court or tribunal. *Audi alterem partem* (hear the other party) is one of the essential maxims of natural justice. This rule has provided the security of the citizens. When this maxim is violated by court, injustice will spread over the society. So, society will collapse by social disorder. This maxim will protect the condemning person from the miscarriage of justice. Bangladesh Constitution has also provided this right in the name of equality before law. In the case of *Dr. Neelima Ibrahim vs. Bangladesh*, this principle is to implied to have verified in each statute. But the circumstance is that due monetary limitations and social disparity not everybody are similarly advantaged to get the assistances of the law. [32 DLR (1980)]

### **Weaknesses of Legal Aid Act:**

1. For which legal aid can be provided, The Legal Aid Act does not specify.
2. Promoting activities of legal aid scheme is so poor. That's why it cannot create awareness among people.
3. Accountability and transparency of the National Board and District members are not ensured.
4. A lot of high-profile persons have engaged on the National Board and District Committee, basically they are so much busy on their own field.
5. Legal aid seeker application selection process is so vague.
6. Lack of proper follow-up of the panel lawyer of District Committee.
7. Delay process of National Board and District Committee.
8. This Act's excessively bureaucratic framework makes it impossible to obtain legal aid under its rules.
9. Members quantity of the *Upazila* and Union Committee is so vast.
10. Indigent litigant cannot file an application without presence in the district. Legal aid facilities are not enhanced to grass root level.
11. Application to the Law Minister seems to be a big hurdle for an indigent client. It has not been explained in the law and to whom an indigent client will go for legal aid in the Supreme Court.
12. District Committee doesn't hold its monthly meetings on a regular basis.
13. Applying procedure for legal aid by the poor is not practical.
14. One of the most disadvantages of the present law is compels poor litigants to travel to the district to get legal aid.

### **II. Recommendations:**

1. A strong networking infrastructure and effective personnel should be provided for the Head Office of National Legal Aid Service.
2. Office of the district legal aid and the location of the session judge court should be closed by legal aid seekers who can obtain all information with ease.
3. Community confidence build-up program should be taken.
4. NGOs and grass root level officers may create public awareness.
5. Government should take proper monitoring and follow-up on top to bottom legal aid scheme.
6. Sufficient fund should be allocated to legal aid activities.
7. Procedures for providing legal aid should be made simpler and more available.
8. Fast track service should adapt in case of affected children and woman.
9. Ensuring that the District Committee submits an annual report to the Board on a regular basis.
10. The implementation of an ongoing program of awareness-raising initiatives, including print and electronic media, seminars, and symposiums, is recommended. Panel lawyer will make a report of their success on yearly basis.

### **III. Conclusion:**

Legal aid service played a vital role for ensuring justice for the all spheres of life in the society. The people of the state are not equal of their level. So, it is undesirable duty of a welfare state ensure justice for all. In the absence of this, social fabric in society will deteriorate and community confidence will decline. For this reason, Government can take proper help from different NGOs and field workers in this arena. National Legal Aid Services has been set up a call center at the Organization's central office with this short code 16430 number. Hon'ble Prime Minister Sheikh Hasina of the Government of the People's Republic of Bangladesh inaugurated the National Helpline Call Center on 28 April 2016 to ensure digital legal aid services door to door for the demoted people. The government is more conscious in assuring legal right as well as fulfilling the basic needs of common people. However, enacting rules relating to legal aid alone is insufficient; proper implementation at the local level must also be ensured. The public awareness is vital determinant to get the success of the legal aid system in our country. The Government should maintain a steady road map of gradual sustainability of this legal aid scheme.

### **References:**

- [1]. 1. Akhtaruzzaman, M. (2013). Concept and Laws on Alternative Dispute Resolution and Legal Aid. Dhaka: Advocate Razia Khatun.
- [2]. 2. Ameen, Nusrat, The Legal Aid Act 2000: Implementation of Government Legal Aid Versus NGO Legal Aid, Journal of the Faculty of Law, vol. XV, No, 2 (Dec. 2004), p. 63.
- [3]. 3. Abdul Hannan vs. Salma Khanam (1974) 26 DLR 337
- [4]. 4. **Acid Niontron Ain, 2002**
- [5]. 5. Clarence Earl Gideon Vs. Wainwright, 372 U.S. 335 (1963)
- [6]. 6. Code of Criminal Procedure, 1898
- [7]. 7. Code of Civil Procedure, 1908
- [8].

- [9]. 8. Constitution of the Peoples Republic of Bangladesh
- [10]. 9. Dr. Neelima Ibrahim vs. Bangladesh, 32 DLR(1980)
- [11]. Halim M. Abdul(2016), ADR in Bangladesh: Issues and Challenges. CCB Foundation. Dhaka.
- [12]. Halim, A., & Siddiki, N. E. (2008). The Legal System of Bangladesh: After Separation. Dhaka: Shams Publication.
- [13]. Khair, S. (2000). Alternative Dispute Resolution: How to works in Bangladesh. Dhaka University Studies, Part F, Dhaka.
- [14]. Khair, S. (2006). Legal Empowerment of Women and Disadvantaged Group. Country Merriam Webster access, visit: 9/3/22
- [15]. Narendra Chandra Rudra Pal vs Sabarali Bhuiya (1925) ILR 52 Cal 721
- [16]. Situation Analysis Report, Dhaka: The Asian Foundation.
- [17]. The Legal Aid Service Act. (2000).
- [18]. The Legal Aid Service Rule. (2014).
- [19]. The New Encyclopedia Britannica, Vol. VI, P.122
- [20]. www.wikipwdi.com

### **Bibliography**

- [1]. Abdul Halim & Siddiki, The Legal System of Bangladesh: After Separation. Dhaka: Shams Publication, 2008,:
- [2]. M. Abdul Halim ADR in Bangladesh: Issues and Challenges. CCB Foundation. Dhaka, (2016),
- [3]. Ali, BRAC's legal aid program and justice seeking behaviour. Dhaka: BRAC. BRAC
- [4]. Md. Ansar Ali Khan, Legal System of Bangladesh, 1<sup>st</sup> ed. (Dhaka: National Law Book House, 2007).
- [5]. Bangladesh Legal Aid and Services Trust (BLAST), Annual report 2004-2005, Dhaka: Bangladesh Legal Aid and Services Trust (BLAST),
- [6]. Bangladesh Legal Aid and Services Trust (BLAST) (2006). Strategic policy and future direction of BLAST, Dhaka: Bangladesh Legal Aid and Services Trust (BLAST)
- [7]. Kazi Ekramul Haque, K. E., Administration of Justice in Bangladesh. Dhaka: Asiatic Society of Bangladesh, 2003.

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