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AN OVERVIEW OF LEGAL AID: BANGLADESH PERSPECTIVE

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ABSTRACT

In Bangladesh, Legal Aid is an important tackle that helps the impoverished and the unprivileged segments of the country to ensure their legal rights in order to ingress a fair and equitable justice. At the present time most of the people of Bangladesh are unlettered and they live below the poverty line in this situation a legal aid may be commonly said a basic needs to enforce the legal justice. They are often obviated to entrance justice due to their economic exigencies and lack of proper legal knowledge. In following the other country, ensuring the legal right as a human right the government of Bangladesh has enacted some laws in the last two decades. But those laws are not fulfill. They have some loopholes, laxness and procedural complexities which obstacle to access justice. As a matter of fact most of the victims are not interested to practice. For this trembling defects the utmost purpose of those enacted laws have plucked to ensure the enjoyment of the legal aid service. In this article an exertion has been taken to find out the loopholes and gaps of the enacted laws relating to legal aid in Bangladesh and given some comprehensive recommendations for the enjoyment of the legal aid services.

KEYWORDS: *Legal aid, Impoverished, Unlettered, Equitable justice, Exertion.*

INTRODUCTION

A democratic country wants to ensure social, economic and legal justice for its all citizens. Therefore, realizing the importance of a legal aid service Bangladesh has adopted some legal aid programs like the developed European countries. ¹ In Bangladesh, legal aid can be identified as a feasible mechanism for reducing the socio-economic inequalities in the society not as charity but as civil right with the statutory laws and constitutional support. ² Governments of all countries are now more concerned on the well-being of their citizens. In this case legal aid is also very significant issue from different perspectives. The Constitution of the People's Republic of Bangladesh provides that free from exploitation, rule of law, fundamental human rights and freedom, equality and justice, political, economic and social shall be the fundamental aim of the state and will be secured for all citizens without undue restraints.

Therefore, the Government of Bangladesh has tried to make a framework to develop the society which will be free from exploitation wherein the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social will be secured for all citizens without any obstacles. ³ Again article 27 of the People's Republic of Bangladesh states that all citizens are equal before the law and are entitled to have an equal protection of the law. But due to financial crisis most of the citizens are equally deprived from getting the facilities of the law. Thus rule of law, equality before the law, equal protection of the law these concepts have been introduced for the movement of legal aid. ⁴

DEFINITION OF LEGAL AID

Legal aid means the support to the impoverished and backward people in the legal matters. It is a government funding system for those people who are unable to pay for advice, assistance and

representation. According to the Legal Aid Services Act, 2000 legal aid provides the assistance of legal advice, lawyer's fees, costs of litigation and other expenses, serviced to the financially disadvantaged citizens including those who are unable to access legal justice.⁵

The New Encyclopedia Britannica defines legal aid as the professional legal free or for a nominal sum assistance to the indigent persons who cannot afford to manage the litigation costs.⁶

The International Commission of jurists defines the legal aid as the legal advice and representation both inside the court and outside the court to those who are threatened to their life, liability or property and are unable to pay for it. The International Commission of Jurists also provides the legal aid as-

- i. Providing monetary aid. Or
- ii. Counseling on any legal issue. Or
- iii. Representing a person in a court of law.⁷

So, it may be said that legal aid means the legal assistance of the paupers both in the court and out of the court who cannot afford to pay the costs for litigation.

FORMATION OF LEGAL AID IN BANGLADESH

According to the Legal Aid Services Act, 2000 the legal aid services are conducted through a National Legal Aid services Board and its District Committees. The whole legal aid services are conducted by the National Legal Aid Board at the national level. The National Legal Aid Board is consisted of the fourteen members. They are-

- a. The minister of the Ministry of Law, justice and Parliamentary affairs as Chairman.
- b. Two parliament members.
- c. The Attorney General.
- d. The Secretary of the Law Ministry.
- e. The Secretary of the Home Ministry.
- f. The Secretary of the Social Welfare Ministry.
- g. The Inspector General of Police.
- h. The Inspector General of jail.
- i. The Vice-Chairman of Bangladesh bar Council.
- j. The President of the Supreme Court bar Association.
- k. The Chairman of the National Women Organization.
- l. Representatives of three NGOs.
- m. Representatives of three women Organization.
- n. Director as secretary of this Board.⁸

The district legal aid committee also conducts the legal aid services to assist the National legal aid Board. The district legal aid committee is also constituted by the fourteen members. They are-

- a. The district judge as Chairman.
- b. The district magistrate.

- c. The police superintendent of the district.
- d. The jail superintendent of the district.
- e. The social welfare officer of the district.
- f. The chairman of the National women organization.
- g. The president of the district Bar Association.
- h. The Government pleader of the district.
- i. The women and children officer of the district.
- j. The public prosecutor of the district.
- k. The inspector of jail of the district (civil).
- l. Representative of the NGO.
- m. General Secretary of the district bar association.
- n. The Metropolitan Magistrate.⁹

Besides these there are also the Upazilla Legal Aid committees in the Upazilla or Thana level and the Union Legal Aid committees at the Union level.

FUNCTIONS OF LEGAL AID COMMITTEES

National legal aid Board and District legal aid committee administer some following functions at national level and district level respectively-

- a) Setting up criteria for the eligibility of the incapable litigants.
- b) Making rules and policies for providing legal aid.
- c) Acceptance of applications from the litigants.
- d) Organizing programs for promoting legal aid.
- e) Administering training, educational and other research activities.
- f) Creation of public awareness for legal aid through different ways.
- g) Consideration of rejected applications by the district or special committees.
- h) Ensuring easy access to justice.
- i) Publication of different books, pamphlets etc. and arrangement of meetings, seminars and workshops.
- j) Taking other necessary measures for providing legal aid.¹⁰

LOOPHOLES OF LEGAL AID ACT

Although the Legal Aid Services Act, 2000 is very important and prominence for the backward and unlettered citizens for legal aid but this Act has some criticisms. The whole mechanism of this Act for legal aid services is full of weakness and loopholes. On a critical analysis the following loopholes are mentioned-

- I. The Legal Aid Services Act, 2000 does not mentioned the specific reasons for which legal aid may be given.
- II. The application process for getting legal aid is very complicated. The unlettered people cannot understand what exactly they have to do?

- III. The applicant does not get the truly needed justice for the delay process of consideration of application by the members of the Board or Committees.
- IV. This Act does not mention any provision for the accountability of the members of the Board and committee. That's why the members of the Board and Committee are not careful about their responsibility.
- V. The selection procedure of the application is vague and ambiguous.
- VI. The members of the Board and Committee cannot realize the depth of poorness or distress as most of the members are from upper class.
- VII. The publications, seminars and media services of this Act are not properly implemented in the local area. That's why local people cannot get the proper services of this Act.

Moreover it is said that the whole procedure of this Act for getting legal aid is full of complexities due to its highly bureaucratic mechanism. And for this systematic difficulties the fate of this Act is as same as the other laws of Bangladesh.

RECOMMENDATIONS

Like the other Laws of Bangladesh, The Legal Aid Services Act is administered by the government of Bangladesh and it would be better success for this Act if the government of Bangladesh takes the following measures-

- i. The legal aid offices of different levels should be located in the same respective premises so that the victim can get the services easily.
- ii. The office of National legal aid Board should strictly monitor all the operations to fulfill the objective of this Act.
- iii. Meeting, training and other activities of different legal aid committees should be regularly ensured, monitored and coordinated.
- iv. The members of the Board and committees at the different level including special committee should not be more than five.
- v. The accountability of the members of Board and committees should be mentioned and strictly ensured.
- vi. Awareness building should be extended all over the country especially in the local area through different programs like media, seminars and symposiums.
- vii. The different committees at the different levels should prepare annual report and submit to their respective head office regularly. And the head office should strictly monitor them.

CONCLUSION

Bangladesh is a developing country. More than thirty five percent citizens are living in the darkness of illiteracy. In this case the implementation of legal aid Act in Bangladesh indicates the willingness of the government to serve the poor and illiterate. The government of Bangladesh must try to ensure the implementation of some activities that can reduce the loopholes of this Act. In order to make great success to reform the legal aid provisions it is important to setup necessary criteria against which it will be enforced. If the legal aid facilities are not properly provided or implemented in the vulnerable sectors then equality before the law, equal protection of the law and rule of law will not be established or guaranteed. So it is the time to do better something perfectly. Therefore the government of Bangladesh should develop the mechanism and take smooth efforts regarding legal aid for ensuring access to justice among the disadvantaged litigants.

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