

Legal Aid Empowers the Critically Disadvantaged People of Bangladesh

Article

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As a welfare state, Bangladesh cherished protect and promote rights of citizen to ensure socio-economic justice to all section of society. Legal aid is inevitable to ensure Rule of law and justice to poor litigant. Legal aid is not a mercy but is a justifiable right of poor litigants. All the cherished goal of our independence to establish a society free from exploitation will be frustrated if the poor, deprived, critically disadvantaged poor litigants fail to avail the legal aid to protect and defend their rights. Introduction of Alternative Dispute Resolution in legal aid is a step ahead to provide distributive justice among the downtrodden litigant people.

Critically disadvantaged people are those vulnerable groups of society who are unable to defend their rights due to various socio-economic constraints, they are well segregated from the mainstream of the society and backwardness is such that they are on the verge of extinction, so it necessitates affirmative state

The preamble of the Constitution of the People's Republic of Bangladesh states that, "it shall be a fundamental aim of the state to realize through the democratic process a socialist society, free from exploitation, a society in which the rule of law, fundamental human rights and freedom, quality and justice, political economic and social, will be secured for all citizen".

action to protect and promote their right and in order to commingle them to the mainstream of the society. In a democratic society in order to establish Good governance participation of all walks of life to national life is a requisite condition. If the backward section can able to protect and promote their rights they will be well conscious about their right of self-determination and can take part in the development of national life.

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Providing legal aid to critically disadvantaged people will pave the way to establish society free from exploitation and where all constitutionally guaranteed right will be ensured for all.

Formal legal system is very much costly, litigants have to face many formalities and have to spend huge amount of money regarding appointing a lawyer to face his case, court fees and other requisite fee to issue summons to other party. Getting access to justice had remained a far cry for the toiling masses of this country. Due to various socio-economic constraints they are failed to avail justice from Court of Law. They have no remedy in cases where their rights are violated. They are helpless and victimized silently. In order to avail easy access to justice and protect the right of indigent litigant the government passed the Legal Aid Services Act, 2000. This Act provides free legal aid to vulnerable group of the society. Critically disadvantaged people can get access easily to the doorsteps of formal judicial system. they can obtain free effective legal aid service; can get proper legal suggestions and advice to remedy a problem. By dint of this Act they are well aware of their rights and got the legal knowledge how to protect their rights and the remedy if their rights are violated.

The preamble of the Legal Aid services Act 2000 contains that this Act is enacted for providing Legal aid to economically insolvent, helpless and who are due to various socio-economic constraint have failed to avail justice. According to the Section 2(a) of

Legal Aid Services Act, 2000; Legal aid means the assistance in terms of legal advice, the cost paid to the Mediator or Saliskar for any Mediation or Salish under the code of civil Procedure 1908 any other existing law, lawyer's fees as provided under Rules, litigation costs and other incidental expenses, provided to the economically insolvent, rootless, and other indigent litigants who for various socio-economic constraint have failed to avail justice. Under Rule 2 of Legal Aid Services Rules 2014 the following groups of people are categorized as eligible to apply for the legal aid;

1. (a) Insolvent or economically insolvent person whose annual 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 challenged, partially challenged, jobless person.
(c) Freedom fighter whose annual income is less than Tk. 1,50,000/- and any worker whose annual income is less than Tk.1,00,000/-
2. Whatever contrary mentioned in sub rule-1 the following person shall be entitled to legal aid;
 - (a) Any child.
 - (b) Any person victim of human trafficking.
 - (c) Any child and women victim of physical, mental and sexual torture.
 - (d) Homeless or rootless person.
 - (e) Any person of minor races, ethnic sects and communities.
 - (f) Any person victim of family violence or any aggrieved person who are on the risk of being victim of family violence.
 - (g) Recipients of old age benefit.
 - (h) Impoverished mother holding VGD cards.
 - (i) Women and child who are victims of acid burns by miscreants.
 - (j) People having land or house at Adarsha Gram.
 - (k) Financially in solved widows, economically disadvantaged women, deserted wives.
 - (l) The handicapped.
 - (m) Persons considered eligible for legal aid by the institution due to their insolvency, helplessness or socio-economic backwardness.
 - (n) Prisoners who are detained in custody untried by Court of law unable to afford legal representation to defend his own case.
 - (o) Persons declared or considered in solvent or helpless by the court of law.
 - (p) Persons who are recommended or considered as in solvent or helpless by jail authority.
 - (q) Any other person who are determined as economically in solvent, rootless to implement the aim of Legal Aid Service Act, 2000 and any person due to various socio-

economic constraints and any person affected by natural calamities who are unable to defend their right or file a suit.

Stephen Golub defined legal empowerment as “Legal empowerment is the use of legal rights, services, systems and reform by and for the disadvantaged populations and often in combination with other activities, to directly alleviate their poverty, improve their influence on government actions and services, or otherwise increase their freedom, i.e. definition provided by the USAID’s; Legal empowerment of the poor occurs when the poor, their supporters, or governments_ employing legal and other means_ create right, capacities and/or opportunities for the poor that give them new power to use law and legal tools to escape poverty and marginalization. Empowerment is a process and end in itself, and a means of escaping poverty, ii. Many scholars agree on the four entry points of legal empowerment as categorized by USAID as i. Rights enhancement. Rights awareness, iii. Rights enablement iv. Rights enforcement, iii. Rights Enhancement involves reforming the law, giving the poor a voice. It focuses on marginalized people’s capability to access the law and to provide a more favorable environment in which marginalized groups effectively can claim and enjoy their rights, iv. Government enacts Legal Aid Services Act, 2000 to provide legal aid to marginalized communities. It opens the door of access to justice of critically disadvantaged people. Legal Aid Services Rules 2014 widen the scope for availability of legal aid and it increase level of income to avail the legal aid and persons who are eligible to avail legal aid. Government by enacting National Legal Aid Organization (formation, obligation and duties of Upozilla, and Union Committee) Regulation 2011 has provided access to legal aid and spreading the essence of legal aid into upozilla and union level grass root people. Government also enacts legal aid Services (legal suggestion and alternative dispute resolution) Rules 2015 to provide legal advice and alternative dispute resolution (ADR) to mitigate the sufferings and to protect the rights of disadvantaged peoples. ADR provides effective solution to their legal problems. The Legal aid officer helps them to arrive at a concrete decision as mutual agreement between the parties. Legal Aid Officer provides legal information how to vindicate their rights. He provides and creates a multiple effective option to get remedy about their problems after perusing and hearing their legal problems.

Rights Awareness involves providing knowledge as a means to legal empowerment. Awareness and knowledge is key for vulnerable people to understand their rights and processes. The rationale is that rights awareness will enhance the demand side of justice in which the citizens can demand for the implementation and fulfilment of rights among the duty bearers, v. Legal Aid program increase legal awareness among the

downtrodden people. Government has launched 28th April as National Legal Aid Day to raise awareness among root level downtrodden people to vindicate their rights by availing legal aid. Goriber Mamlar Var Bohon Kore Sarker i.e. Cost of litigation for indigent litigant bear by Government is also a motto of legal aid service in Bangladesh. Legal awareness among the grass root level downtrodden people is increasing day by day. National Legal Aid Organization, District Legal Aid Committee. Upozilla Legal Aid Committee, Union Legal Aid Committee soothe message of various legal issue about legal aid to grass root people of Bangladesh. The common grass root level people are well aware about their rights and how to get legal aid from legal aid offices. Access to legal information provided by legal aid office and legal aid officer helps the litigant people to find out proper solution to their legal problem. Making decision what will be the proper way and proper remedy for own cause make the people much aware about their rights. This will pave the way of right to self determination to properly guide their own decision which will affect their life. It is the people on the core of development. If people are well empowered their development will inevitably will occur. To bring out inner sprit of litigant people access to legal information is is must. A litigant can gain legal information from legal aid officer about their legal problems and many other which will affect his day to day life to defend his right.

Right Enablement involves enhancing vulnerable people's legal means to access justice by providing affordable and accessible legal aid, as well as promoting affirmative action and the process of incorporating vulnerable people in public procedures, vi. People can easily enforce their rights by court of law through legal aid. It will raise public confidence over judiciary, justice delivery system. Legal aid raise judicial activism among the presiding judges to provide justice to the insolvent and marginalized people and it also raises legal reasoning among the stakeholder how to provide justice to the justice seeker, generating more options of solution of problem and way of providing justice to critically disadvantaged people by way of court and through alternative dispute resolution or local Salish.

Right Enforcement involves providing access to enforcement so that poor and vulnerable people can access and protect their rights through fair mechanisms through developing the capacities of formal institutions as well as through traditional and ADR mechanisms, vii. In order to protect and defend rights o critically disadvantage people all the state machinery is ready to enforce their rights. They can protect their civil rights i.e. dower and maintenance, guardianship rights, partition, declaration of rights, specific performance of contract, land rights personal rights child rights, constitutional rights, any other rights which will affect right to life and property. Procedural laws are

amended to modify and provide flexibility to justice delivery system by providing A.D.R. Strategic Plan 2012-2017 of National Legal Aid Service Organization provides following Fundamental Principle of Government Legal Aid;

- i) **Poor focused:** Legal services meet the real needs of poor justice seekers. Poor justice seekers are treated with dignity and respects.
- ii) **Accessible:** Legal aid is well advertised in the communities. Poor justice seekers can easily come to places where applications are taken. The application processes are simple. Applications are processed quickly.
- iii) **Accountable:** Legal aid programs run in accordance with law. Legal aid is accountable to government for funds spent and to service providers for services contracted.
- iv) **High quality:** Legal aid service providers act with highest standards of professionalism to serve the best interest of the clients.
- v) **Effective:** Legal aid makes a positive difference to the lives of the poor clients. Legal aid services are prompt and appropriate for clients needs. Rights and entitlement are protected.
- vi) **Equitable:** Legal aid operates without discrimination. The special needs of women, children and disadvantaged are recognized. Legal Aid takes proactive steps to raise awareness of legal aid and to provide appropriate services to meet the special needs of women, children and disadvantaged groups.
- vii) **Collaborative:** Legal aid collaborates with other government and non-government organization at all levels to ensure that poor justice seekers get the most efficient and effective services possible.

Bangladesh Rural Advancement Committee (BRACK), Madaripur Legal Aid Organization, Bangladesh Legal Aid and Service Trust (BLST), Ain-O-Salish Kendro (ASK), and various other local and national Nongovernmental organization provide various types of legal aid service i.e. provides legal aid in terms of cost and advice to conduct a suit in court, solve the problems through ADR, local Salish, Mediaton etc and provide community awareness campaign to awake legal consciousness about how to protect their right.

Legal Aid provides and creates the way of access to justice of downtrodden people. Critically disadvantage people by way of availing legal aid are easily capable to protect and defend their right. They can easily solve their problems by way of accessing legal aid office for obtaining legal aid and services by way of ADR or mediation. They are well aware about legal aid, how to obtain it, the procedure of legal aid service to conduct a suit and availability of legal suggestions of their legal problems in legal aid

office. The Government are enacting and formulating various Rules and regulation to make the process of legal aid service more flexible, simple, and well accessible to the downtrodden people.

Government and legal aid committees and various other non-governmental organizations are proactively awakening the essence of legal aid among the stakeholders by way of campaigning, leaflets through print and electronic media, courtyard meetings, mellow drama and publication of books. Critically Disadvantaged People are much aware about their right and have gained the inner strengths to defend and enforce their rights by availing legal aid, legal aid inevitably empowers the Critically Disadvantaged people through changing their way of thinking about their life, providing machinery to protect and defend their rights.

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 - iii. ibid
 - iv. Bryman A (2012) Social Research Methods (4th ed.) New York. Oxford University Press.
 - v. ibid
 - vi. op cit.ii
 - vii. ibid