

Legal Aid In Bangladesh: Application And Commitment

Esrat Jahan¹

ABSTRACT: *Equality before law and ensuring social justice are important weapons to prevent social violence and development of societies in civilized countries. As per the modern justice system judicial adjudication is very costly and that cost has been the most difficult factor for the people to get justice in both developed and developing countries. In Bangladesh maximum of the population live under the poverty margin. If only rich persons can seek justice, the natural justice will be violated. So as a welfare state justice shall have to be ensured for all people of the state. For this reason there is a system in Bangladesh to make the justice available to the poor which may be called legal Aid. The constitution of Bangladesh has, in clear terms, recognized the basic fundamental human rights that are “equal before law” and “equal protection of law”. A large number of people in the country do not have any financial and other logistic support to get the appropriate service from the judicial system. This research focuses on the present legal aid services of Bangladesh, clarifies the system and suggests potential methods to improve this service.*

KEYWORDS: *Equality, natural justice, violation, Aid, Instruments, Administration.*

I. INTRODUCTION

The previous concept of ‘police state’ has been changed into a welfare state in where the rigid and repressive controls over the social, economic and political life of the population exercised by the government also turned into the responsibility of the government to the extent of the welfare of the people in such matters as social security, health and education, housing and working conditions. Now this trend of welfare state is introduced into the international community and the governments of all states are increasingly concerned about the welfare of their citizens. Most of the nations duly recognize the equal status of all people before the law, the presumption of innocence until proven guilty and the right to legal representation. Article 7 of the Universal Declaration of Human Rights (UDHR) stated that “All are equal before the law and is entitled to equal protection of the law without any discrimination”. So, it’s the universal urge that all people should get the equal protection of law. But all citizens are not equally privileged to get the benefits of law. Most of the time, poor people are unable to get protection of law due to the severe existence of poverty in the society. In the modern justice system, the adjudication process is become very expensive in both developed and developing countries and that cost has been the most trouble matter for the poor litigant to get justice. In this recent century, the concept of “LEGAL AID” has been brought forwarded by the welfare state for the people who are unable to afford the cost of litigation. Legal aid is the very tool for ensuring access to justice for the people who were unable to afford legal advice or legal representation. It has been identified as an effective mechanism to access justice by eliminating the socio-economic based discrimination in the societies. It has been extended to the members of the society who are entitled to get the benefit of legal aid as their civil rights with Constitutional basis. The legal aid movement in Bangladesh was first introduced at the governmental level in the year 2000 when the Government made an imitative to provide legal aid to indigent litigants in assurance of financial co-operation by the Canadian International Development Agency (CIDA) and thus the Bangladesh Legal Aid Act 2000 was passed with a view to providing the legal mechanism and access to legal aid throughout the country. The main objective of the legal aid mechanism of the developing countries is to make a uniform and standard law for the poor and the privileged sections of a democratic country to access their justice. Bangladesh being a developing country of the South East Asia, adopt Legal aid as an effective tool to achieve equal protection of law.

II. INSTRUMENTS RELATING TO LEGAL AID IN BANGLADESH

Legal Aid in Bangladesh Constitution: In the preamble of the Constitution of the People’s Republic of Bangladesh, the one of the fundamental aims of the state has been vow, to realize a society in which equality and justice would be secured for all citizens.

¹ Senior Lecturer, Department of Law, Northern University Bangladesh

The third paragraph of the Constitution of the People's Republic of Bangladesh, 1972 briefly states the process of such achievement that-it shall be a fundamental aim of the State to realize through the democratic process to socialist society, free from exploitation, a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens. So, it is crystal clear from the above paragraph that it is the constitutional obligation of the Government of Bangladesh to fix a goal to establish a socialist society which will be free from exploitation and society where rule of law, fundamental human rights and freedom, equality and justice in the political, economic and social aspect, will be secured for all citizens. Article 27 of the Constitution of the People's Republic of Bangladesh, 1972 ensures that all citizens are equal before law and are entitled to have equal protection of law. From the perspective of the principles of Natural Justice, one of the principles of Natural Justice that "audi alterem partem" (i.e. Nobody should be condemned unheard). That principle denotes that it's the mandatory requirement of the judge to hear the person before condemning him, if he has anything to say to prevent the miscarriage of justice. In the case of Dr. Neelima Ibrahim vs. Bangladesh² it was held that the principle of audi alterem partem (hear the other party) unless expressly excluded by law or by the nature of the objects of any particular law is to be implied to have been proved in every statute. The Constitution of the People's Republic of Bangladesh, 1972 has expressly recognized the basic fundamental human rights that are "equal before law" and "equal protection of law". The actual feature of this country is a large number of people are not financially solvent or they do not have any other logistic support to get the appropriate service from the judicial system. In this content, the protection of equality before law and equal access to law in the Constitution of Bangladesh becomes mere paper tiger when an indigent people finds himself helpless in the police custody or jail custody and he cannot afford a lawyer to defend himself.

Acid Niontron Ain, 2002: Section 8 (c) provides that the person who are the victims of Acid violence then it is the duty to the council need to provide prescribed policy for their medical aid, rehabilitation and legal aid and also take some steps for its execution and monitor.

The Code of Civil Procedure, 1908: In civil matters, Order XXXIII of CPC deals with the 'pauper' suit. A pauper is a person without any means of support especially a destitute person who depends on aid from public welfare funds or charity³. But under civil procedure code a person is a "Pauper" when he does not possess sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or where no such fee is prescribed, when he is not entitled to property worth five thousand taka other than his necessary wearing-apparel and the subject-matter of the suit⁴. Every application for permission to sue as a pauper shall contain the particulars required to plaints in suits and a schedule of the movable and immovable property along with the estimated value thereof⁵. The application should be presented by the applicant to the court in person unless exempted by the court. The court shall reject an application for permission to sue as a pauper person; if the application is not framed & presented in the prescribed manner, where the applicant is not a pauper, where the applicant has within two months before the presentation of the application disposed of any property fraudulently in order to get permission to sue as a pauper, where there is no cause of action and where the applicant has entered into an agreement with reference to the subject matter of the proposed suit⁶. Where the court grants an application in this regard then such application shall be treated as a plaint in the suit and the plaintiff not need to pay the fees connected with the suit except the process fees. But if the court refused an application for pauper then it creates a bar for the applicant to a subsequent similar application although he is free to institute a suit in the ordinary manner.

Legal Aid in Criminal matters: In criminal matters, the life, property and personal liberty of a person are inseparably connected with the cases, so the need for legal aid in such cases is consider high. Section 340 of the criminal procedure code, 1898 states the right of person to defend against whom proceedings are instituted and says that an accused should be defended by a lawyer and he must pay the fees and nothing more. While commenting on section 340 (1) of the Code of Criminal Procedure, 1898, the Supreme Court of India observed that the right conferred by section 340 (1) does not extend to a right in an accused person to be provided with a lawyer by the State, or by the police or by the Magistrate. That is a privilege given to him and it is his duty to ask for a lawyer if he wants to engage one and to engage one himself or get his relations to engage one for him. The only duty cast on the Magistrate is to afford him the necessary opportunity. In the case of *Clarence Earl*

² 32 DLR (1980) p 201

³ ibid

⁴ Rule 1 of order XXXIII of CPC, 1908

⁵ Rule 2 of order XXXIII of CPC, 1908

⁶ Rule 5 of order XXXIII of CPC, 1908

Gideon Vs. Wainwright, 1963, the USA Supreme Court has recognized that it is the right of undefended accused to have a lawyer at the cost of the state. In all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defense.

The Bangladesh Legal Aid Act 2000 and The Legal Aid Rules 2001: In order to ensure access to justice to the poor and indigent people, the Government of Bangladesh enacted the Legal Aid Services Act 2000 (LASA) and this Act provides legal aid to the poor litigants who are incapable of seeking justice due to financial insolvency, destitution, helplessness and also for various socio-economic conditions. Thereafter National Legal Aid Services Organization (NLASO) 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 Hon'ble 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.

III. PROVISIONS OF LEGAL AID IN INTERNATIONAL INSTRUMENTS

In criminal matters, the provision of legal aid is recognized throughout the world. The right to get legal aid has been recognized as human rights which are implicit in Articles 7, 8 and 10 of the Universal Declaration of Human Rights (UDHR), 1948 and more it flows clearly and inevitably from clause 3 (d) of Article 14 of the International Covenant on Civil and Political Rights (ICCPR), 1966. Article 7 of the Universal Declaration of Human Rights, 1948 provides that- all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

According to Article 6 (3) (c) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 the right to free legal aid to a person charged in a criminal case is ensured. Besides, the United Nations Conference on the Prevention of Crime and Treatment of Offenders, 1965 and the International Conference on Human Rights, 1968 (the Tehran Conference) accepted the provisions of legal aid in criminal matters attaching due importance. Some other international instruments provided provisions of legal aid in criminal matters. For example, the International Covenant on Civil and Political Rights, 1966 provides for legal aid in criminal matters under Articles 14 (3) (d), 6 (1), 20(1) of the Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms, 1995 contain similar provisions as article 7 of the Universal Declaration of Human Rights. Article 24 of the American Convention on Human Rights, 1978 declares that all persons are equal before the law and consequently, they are entitled, with the discrimination, to equal protection of the law.

IV. ADMINISTRATION OF LEGAL AID SERVICE IN BANGLADESH

The Bangladesh Legal Aid Act 2000 comprehensively provides for the decentralization of activities in national and district level. At national level there is a National Legal Aid Board, at district level there is a District Legal Aid Committees, in the Upazilla or Thana level there is an Upazilla Legal Aid Committees and in Union level there is a provision of Union Legal Aid Committees. Besides the National Legal Aid Organization, there are some Non-Governmental Organizations (NGOs) in the country and they also provide legal aid to the poor people in the society. Most of the Human Rights NGOs provide legal aid to the aggrieved person. Among these NGOs Bangladesh Legal Aid and Services Trust (BLAST), BRAC, RUPANTAR, Bangladesh National Women Lawyers Association (BNWLA), Human Rights Commission (HRC) are playing leading role in providing legal aid.

The National Legal Aid Organization: "National Legal Aid Organization" established under Sec-3 of the Bangladesh Legal Aid Act 2000 which will organize and monitor proper functioning of this Act. Section-5 of this Act mentioned that the management and administration of the National Legal Aid Organization will be vested on a National Management Board.

As per Section 6 the National Management Board shall be constituted as follows:

- (a) The minister of the Ministry of Law, Justice and Parliamentary Affairs; he will be also the Chairman of the Board of Governors;

- (b) Two members of parliament of whom one from the party ruling the Govt. and another from the opposite party in the parliament, both of whom will be nominated by the Speaker of the Jatyta Sang shad;
- (c) The Attorney General for Bangladesh;
- (d) The Secretary of the Ministry of Law, Justice Affairs Parliamentary;
- (e) The Secreta1 of the Ministry of Home Affairs;
- (f) The Secretary of the Ministry of Social Welfare;
- (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, dealing with the Law and Human Rights nominated by the Govt. who have contributed in different districts;
- (m) Representatives of three women organizations nominated by the Govt. who have contributed in different districts;
- (n) Director, who will be the Secretary of this Board.

Institutional Framework and Functions of the National Board: The institutional framework for administering legal aid at national and district levels established under the Act. According to section 7 of the Act, National Legal Aid Board will primarily act as policy-making authority and will discharge following functions:

- (a) Selection of persons who are eligible to get justice due to financial crisis or due to different socio — economic reasons and formulate rules and policies to provide legal aid to those;
- (b) Frame the project to provide legal aid;
- (c) To organize research and educational activities to provide legal aid;
- (d) Use of print and electronic media to broadcast different programs in order to create awareness among general people about the availability of legal aid in different;
- (e) The application rejected by the District Committee would be reviewed; (monitor the activities of the District Committee);
- (f) Making people aware of getting legal aid through publishing different books, leaflet, pamphlets etc;

District Legal Aid Committee: The District Legal Aid Committee' (District Committee) is mainly responsible to provide legal aid at the district level subject to the availability of fund from the government. Through the application the seekers of legal aid, the Committee screens the applications and determines criteria for providing legal aid and provides so. The District Legal Aid Committee is constituted by the following members-⁷

- (a) The District Judge, he shall be the Chairman also;
- (b) The District Magistrate or an officer to the rank of at least Additional District Magistrate nominated by him/her;
- (c) The District Superintendent of Police;
- (d) The District Jail Superintendent;
- (e) The District Social Welfare Officer, if any;
- (f) The Women and Children Officer of the District, if any;
- (g) The Chairman of the National Women Organization or his nominee;
- (h) The President of District Bar Association;
- (i) The Govt. Pleader of the District;
- (j) The District Public Prosecutor
- (k) The Inspector of the District Civil Jail
- (l) One representative of the NGO nominated by the District
- (m) The General Secretary of the District Bar Association,

The Metropolitan Magistrate and the Metropolitan Police Superintendent will also be the member of the District Legal Aid Committee where there is a metropolitan area.

Duties and Responsibilities of the District Committee: The District Legal Aid Committee is responsible for the following Duties-

- a) To provide legal aid to the people who confirms the criteria as set up by the Board of Governors and who are unable to get justice due to financial crisis or due to different socio economic reasons;

⁷ Sec-9, the Legal Aid Act 2000

- b) To set up the stipulations on which a successful applicant will get the legal aid;
- c) To make the people aware of availability of legal aid;
- d) To perform the duty incurred by the Board; and
- e) Perform other activities necessary for the enforcement of the above mentioned activities⁸.

The Upazila Committee, the Union Committee: The Upazila Committee and Union Committee shall form with one Chairman and 14 other members. The Upazila Committee and Union Committee shall set forth all the issues relating to the subsequent rules:⁹

Fund of Legal Aid: As per Section 13 of the Act, there will be a fund of the National Board of Law and the following kinds of money shall be deposited in that fund

- a) The donations made by the Government;
- b) Donations from any local authority, company or person;
- c) Donations from the foreign organization;
- d) Any other fund received by the Board from any other sources.

The amount of the fund shall be deposited in a govt. bank in the name of Board. The amount can be withdrawn by the joint signature of the chairman and the Member Secretary of the Board in cases where the District Committee has needed amount from this fund. All types of expenses of the Board shall be met from this fund. The Board is also empowered to invest the fund in any of the govt. authorized projects.

Penal Lawyers: The National Legal Aid Board shall prepare a list of panel lawyers of the Supreme Court who have practiced therein for a minimum period of 7 years to try the cases where legal aid was claimed which are pending or may come to the Supreme Court. The District Legal Aid Committee shall make a list of the panel lawyers of the District Bar Association who have practiced therein for at least a period of 5 years to try the cases which are pending or may come to the District Courts. At least one female lawyer shall be included in every panel and any lawyer of the petitioner's choice will be enlisted in the panel of lawyers of the Board or District Committee¹⁰. Along with the guidelines and rules set forth by the Ministry of Law, Justice and Parliamentary Affairs under section 24¹¹ provide detail procedures for the selection of lawyers. Rule 4¹² states that if the District Committee approves an application for providing legal aid, then the Committee shall nominate three lawyers amongst the enlisted panel lawyer and appoint one of them to represent the applicant with his consent. Here the applicant has the discretion to choose his own lawyer. The Rule also states the limit of accountability of the lawyers. As per Rule 5¹³, the appointed lawyer must have to submit a report stating the latest situation of the proceeding pending before the Court in every three months. Rule 6¹⁴ states the provisions for paying the fees to the lawyers. The amount of prescribed fees varies on the basis of stages of the legal proceedings, nature of dispute and hierarchy of the Court¹⁵.

V. THE NON GOVERNMENTAL ORGANIZATIONS:

The Bangladesh Legal Aid Services Trust (BLAST) maintaining national networks of lawyers and currently providing legal aid and mediation services in eighteen districts and five legal aid clinic. Recently it's operating in 19 districts throughout the country working with its staff lawyers (and paralegals and researchers) at headquarters and in each district unit as well as with the collaboration of its enlisted panel of about 2300 lawyers across the country who provide legal redress to clients on a pro-bono basis, with a nominal honorarium. A panel of lawyers who are practicing in the Supreme Court of Bangladesh also undertakes litigation and advocacy on law and policy reform. BLAST is governed by a Board of Trustees comprised of eminent jurists, lawyers and human rights advocates who have experience in domestic and international protection of human rights by providing critical leadership to the organization. A Consultative Group, comprised of young professionals, including researchers, lawyers, and human rights advocates also supports the BLAST in conducting its service. It has a close relationship with the Bar Associations at all levels, especially its Management Committees comprised of leaders of the Bar within each District. The panel lawyers provide the legal aid services directly. It

⁸ Sec-9, the Legal Aid Act 2000

⁹ Sec-12, the Legal Aid Act 2000

¹⁰ Section 15, Bangladesh Legal Aid Service Act 2000

¹¹ *ibid*

¹² Bangladesh Legal Aid Rules 2001

¹³ *ibid*

¹⁴ *ibid*

¹⁵ Data collected-Zakir Hossain, District Legal Aid Staff, District Legal Aid Office, Khulna. Date 17-12-12

regularly takes initiative to create several types of awareness programs on legal rights for community members in its areas of operation, including family laws, criminal law and land laws. It is also held in regular coordination meetings with local administration officials, in particular with key actors within the justice system, including members of the judiciary and legal profession, and with civil society organizations. BLAST provides legal advice and representation at all levels of the judicial system with an emphasis on providing services to those living in poverty or facing disadvantage or discrimination. Legal aid services, including mediation, litigation and legal rights training, investigation of human rights violations, including those impacting on women and girls, religious or ethnic minorities and children are provided through BLAST's head office and nineteen unit offices throughout Bangladesh. BLAST carry out awareness programs across Bangladesh among the public regarding legal rights and remedies, focusing on courtyard meetings for women. BLAST also conducts training workshops for local community leaders to build legal alertness.

Bangladesh National Women Lawyers Association (BNWLA) is one of the pioneer organizations working for the establishment of human rights in this country. BNWLA has formed a number of cells to achieve their objectives and taken up various plan. The Legal Aid Cell provides support to the abused women with legal counseling, mediation and litigation services voluntarily. The Research and Communication Cell mainly conducts research, collects data and undertakes survey on women concerns. The Investigation Wing undertakes investigations into incidents as rape, torture, murder, terrorism, land rights, deception, abduction, harassment etc. The Communication and Publication Wing publishes books and booklets on family, dowry, marriage divorce, and inheritance laws. The Training Cell organizes training programs for law enforcing agencies, government functionaries and NGOs dealing with issues relating to violence against children and women. It established a Shelter home 'Proshanti' in 1993. The home provides shelter to women and children rescued from different trafficking, brothels and jails.¹⁶

BRAC conducts various programs to protect vulnerable individuals from discrimination and exploitation at home and within their communities. This program includes legal aid, legal education and support services which help to ensure poor people have fair and equal access to justice through 541 Legal Aid Clinics across Bangladesh. It provides free legal aid services to poor people, making the formal legal mechanism more accessible, and allowing us to support the acid throwing, survivors of rape, sexual abuse, trafficking, and other forms of rights violations. It offers psychological counseling and shelter to survivors. Whilst working with the formal legal system and other development organizations to help the authorities on human rights matters, it also reaches out to family members and witnesses to help rehabilitate all those affected. Non compoundable issues are directly settled in court by the staff lawyers of BRAC. Barefoot lawyers or Shebikas, are trained to conduct legal literacy courses targeting women in remote areas – they are frontline facilitators in reaching the rural poor, and are usually the first port of call for a survivor of abuse. Through social networks within communities our Shebikas can rapidly respond to and rescue survivors. Without any basic knowledge of Human Rights and Legal Education (HRLE) deprived communities and poor people cannot protect themselves, exposing them to vulnerability and exploitation. Human rights and legal education course of BRAC covers a number of human rights issues with visually effective materials carefully developed by Human Rights and Legal Aid Services (HRLS) team. Classes are held locally in villages and primarily target women to help raise legal awareness and an understanding of the legal system. Local disputes often relate to land ownership.

Rupantar is one of NGO, but it does not provide direct legal aid service. It only conducts legal awareness programs and refers the vulnerable affected people to the BNWLA, BLAST, Human Rights Commission (HRC) with the help of their internal communication to other NGOs.

The National Human Rights Commission : The National Human Rights Commission (NHRC) is an independent statutory body formed under the National Human Rights Commission Act 2009. The NHRC serves as the major national human rights watchdog, monitoring implementation of state obligations to respect protection and the fulfillment of the rights of every single member of society. It addresses exact human rights complaints through investigation, mediation and conciliation, and where necessary, through constitutional litigation, and more broadly through raising public awareness. The National Human Rights Commission Capacity Development project is a step towards building the institutional strength of the Commission, and establishing it as an efficient, effective and credible organization capable of fulfilling this mandate, particularly for the most vulnerable and disadvantaged groups in Bangladesh.¹⁷

¹⁶ <http://www.bnwlabd.org/bnwla-profile/> last visited date 25th December 2012

¹⁷ http://www.undp.org.bd/projects/proj_detail.php?pid=77 last visited date 22th December 2012

Comparison the Legal Aid Services between Government and NGOs : Legal Aid from Government: The quality of the government's legal aid program still remains unsatisfactory. Though it could improve access to justice by boosting the financial capacity of poor clients and by making them capable of conducting their own cases, scarce legal aid funding and inefficient management of available funds has failed to resolve the problem of disproportionate access to formal courts. Another lacuna in government legal aid services relates to insufficient payment made to panel lawyers who then provide 'free of cost' legal services to clients. Although NLAO¹⁸ does not use a monitoring mechanism or performance index to measure the quality of legal services gained through legal aid, data indicate that, because of insufficient payment, lawyers are not diligent while working with cases which receive government legal aid. "It has been found that the lawyer remain absent on the date of hearing. Many of the prisoners stated that they never met the lawyers assigned to them even when legal aid had been provided for about a year." Therefore, even if few of the poor female clients may be able to access legal aid, they may not expect to get good outcome through contested decrees due to the negligence of their lawyers.¹⁹

Legal Aid from NGOs: As mentioned earlier, a number of NGOs provide legal aid to its poor and indigent clients. Research data reveal that legal aid provided by the various leading NGOs is not high enough to satisfy the demands. For example, according to the data collected for this study, in the year 2011 BLAST provided legal aid to 331, in the year 2012 BRAC provided legal aid to 144 and Dower & Maintenance recovered by suits & Office ADR -Tk.1696900, judgments in criminal and civil -91. My study on legal aid recipients from government and non-government sources concluded that aid recipients from these two sources do not even overlap by any considerable degree. Therefore, by combing the cases of receiving legal aid from government and NGOs, it is a matter of disappointment that only less amount of indigent people received legal aid. This indicates that, most of the indigent people who are eligible for legal aid service are not getting this service of total litigants do not have access to either government or NGO provided legal aid and may be 'denied equality in the opportunity to see justice as envisaged in our Constitution'. Under this circumstance, legal aid fails to relieve indigent people from the non affordable cost of proceedings in the court, and cannot ensure their constitutional right for the equal access to justice. Legal aid funding from government and NGOs might fail to attain any significant constructive impact on the access to quality justice that indigent people may seek from courts.²⁰ Nevertheless, NGO lawyers remain much sincere in contesting their legal aid cases through courts and have a very good rate of success in comparison to family cases funded by government legal aid. NGO legal aid also increases the abidance to NGO mediation agreements made outside the court. Sometimes merely the knowledge that a party (usually women) may file law suit with NGO legal aid is sufficient to make other parties (usually men) voluntarily comply with a mediation agreement. Therefore, provisions of legal aid are often described as the 'teeth' of mediation efforts.²¹

VI. FINDINGS AND RECOMMENDATIONS

Findings:

- The lack of awareness & publicity about the legal aid scheme, programs and its purpose among the indigent litigants and also among the lawyers and judges in general is the main obstacle to achieve the objectives of the scheme of legal aid in Bangladesh.
- The numbers of field officers of different NGO are very short to create the awareness about the legal aid service which are providing by their NGO.
- The accountability of the members of the Board and Committee are not ensured in the Act and for this reason, this Act may meet the same fate as other Acts of Bangladesh. It will be treated as mere ambitious work of the government and this Act will help the govt. to speak up in national and international seminars but the fate of the poor people will remain largely unchanged.
- The present law compels indigent litigants to travel to the District committee to get legal aid which is very disadvantageous for them. There is a need to implement all provisions mentioned LASA 2000 such as Upazila and UP Committee;
- As per Rule 3(2) of the Legal Aid Rules 2000 for legal aid for any matter in the Supreme Court application is to be made to the Chairman of the National Legal Aid Organization, i.e. the Law Minister. Making an application to the Law Minister seems to be a very big hurdle for an indigent client. It has not been clarified

¹⁸ National Legal Aid Organization

¹⁹ <http://www.isca.in/IJSS/Archive/v1i3/2.ISCA-JSS-2012-015.pdf> ; last visited date December 15, 2012

²⁰ *ibid*

²¹ *ibid*

in the Rules how and to whom an indigent client will approach for legal aid in the Supreme Court matter. Few lawyers or judges in the Supreme Court know anything about this system.²²

- The monthly meeting of the District Committee shall not be held regularly as per the rule of Legal Aid Act for the consideration of the application of the applicant for providing legal aid service.
- There is also problem with follow-up measures. After allocating a case to a panel lawyer, there are no proper follow-up measures in the form of timely review of progress of the panel lawyers by the District Committee. Lawyers appointed become disinterested because of the absence of proper follow-up measures. If a lawyer appointed on legal aid is found irresponsible, there should be effective systems of removing him from the panel.

Recommendations:

- The NLASO Head Office should be reasonably equipped with logistic capacity considering particularly the extent of monitoring and coordination network that it will have to operate all over the country. Precise attention is required to undertake an in-depth need-assessment of logistic
- The District Legal Aid office/centre should be ideally located in the same premises of the District and Session Judge Court, or alternatively, in the premises of the District Bar Association where possible.
- Regular meetings of NLASO's central, district and other, when established, committees as well as regular attendance of the members should be ensured and monitored.
- Awareness building initiatives both at the national as well as district and grass-root levels are essential pre-conditions for an effective NLASO service. Notice boards of the recommended district legal aid centre should comprise information about the services offered
- Increasing target group confidence and reliability is an essential precondition for the government legal aid service to be effective and operational. A strong recommendation of this study thus relates to initiatives on improving and monitoring the quality of services provided by NLASO.
- Establishment of the national office of the NLASO as recommended above would greatly enhance the Organization's capacity to document, monitor, and review and evaluate reports from the District Committees and other decentralized committees when established.
- The annual reports should be prepared by the District Legal Aid Committees and submitted to the Directorate. The annual report will be a compilation of the largely quantitative quarterly reports with an added element of qualitative assessment made by the District Committee on the overall services provided.
- Reporting by the District Committees to the Head Office of NLASO should be regular, consistent and following a format recommended to be developed by NLASO.
- The reporting formats should also be developed for the panel lawyers who should report briefly on individual legal aid cases assigned to them preferably with the submission of final invoice for payment as well as an annual report on their overall involvement with NLASO as a panel lawyer.
- It is strongly recommended by this study that regular auditing as stipulated under section 18 of LASA 2000 should be conducted for all the District Legal Aid Funds.
- Promoting political commitment to the causes and operation of the Government legal aid service through policy advocacy and coordination between different Ministries (for instances Ministry of Law Justice and Parliamentary Affairs and Ministry of Home Affairs) on issues that are inevitably related to the effective and sustained operation of NLASO services²³.
- The procedures for getting legal aid service of the indigent people from the legal aid office and NGOs should be easily accessible and selection of application for legal aid service should be speedy.
- To raise the awareness about the legal aid service, the awareness programme should be published among the general people in the society by the government and NGOs.
- Proper monitoring and follow up measures should be taken by government and NGOs for effective function of legal aid service.
- The procedures for getting legal aid service of the indigent people from the legal aid office and NGOs should be easily accessible and selection of application for legal aid service should be speedy.
- The fund to the legal aid service by the government and NGOs should be increased to adequate legal service to the indigent people.
- The numbers of field officers of different NGOs should be increased to create the awareness about the legal aid service which are providing by their NGOs.

²² ibid

²³ <http://www.manusherjonno.org/index.php/component/content/article/34-events/43-seminar-on-legal-aid-and-services-act.html>

- To provide the effective legal aid service to the poor people and affected women, the combination of three agencies: Legal Aid Committee, legal aid lawyers and legal aid clients must be required to act together.

VII. CONCLUSION

Legal Aid as a mechanism endow with a great importance in the all spheres of life to provide equality in the society. Bangladesh government takes initiative to provide this assistance to the poor people and has created a law for this purpose that is Bangladesh Legal Aid Act, 2000 and taken many scheme to implement these laws through the govt. action and also through the NGOs. But only the laws are not enough to ensure the proper implementation of the Government and non-government initiative, the public awareness is the key factors to get the fruits of the legal aid system in this country. A greater collaboration between government and NGOs may ensure a better utilization of the legal aid provisions. Moreover, Law students need to be involved in various Alternative Dispute Resolution activities where they will be exposed to real life situations and get opportunities to apply their knowledge of law as well as be sensitised to the rights of the marginalised sections of the community to ensure the natural justice and a welfare judicial system.